Also, a bill (H. R. 7148) granting a pension to Lucinda Belle Burbridge; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7149) granting a pension to Elizabeth Tysinger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7150) granting a pension to Charles Booth; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7151) granting a pension to Mary Amonett; to the Committee on Invalid Pensions.

By Mr. RAKER: A bill (H. R. 7152) for the relief of Lilly O. Dyer; to the Committee on Foreign Affairs.

By Mr. REECE: A bill (H. R. 7153) authorizing the President to appoint J. H. S. Morison to the position and rank of major, Medical Corps, in the United States Army; to the Committee on Military Affairs.

By Mr. REID of Illinois: A bill (H. R. 7154) for the relief of Joliet Forge Co., Joliet, Ill.; to the Committee on Claims.

By Mr. ROBSION of Kentucky: A bill (H. R. 7155) granting an increase of pension to Emily Robinson; to the Committee on Invalid Pensions.

By Mr. SANDERS of New York: A bill (H. R. 7156) for the relief of Maurice E. Kinsey; to the Committee on Claims.

By Mr. SNELL: A bill (H. R. 7157) granting an increase of pension to Myra B. Hall; to the Committee on Invalid Pensions.

By Mr. SOMERS of New York: A bill (H. R. 7158) granting a pension to Annie Coughlin to the Committee on Invalid Pensions.

By Mr. SPEAKS: A bill (H. R. 7159) granting an increase of pension to Mary C. Morton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7160) granting an increase of pension to Sarah C. Stites; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7161) granting an increase of pension to Annie Evans; to the Committee on Invalid Pensions.

By Mr. TABER: A bill (H. R. 7162) granting an increase of pension to Mary E. Ferguson; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 7163) granting an increase of pension to Thomas M. Woods; to the Committee on Pensions.

Also, a bill (H. R. 7164) granting an increase of pension to Thomas E. Shehan; to the Committee on Pensions.

Also, a bill (H. R. 7165) granting a pension to Patrick S. Horton; to the Committee on Pensions.

Also, a bill (H. R. 7166) granting a pension to Jennie Creswell; to the Committee on Invalid Pensions.

By Mr. TAYLOR of West Virginia: A bill (H. R. 7167) granting a pension to M. F. Larrison; to the Committee on Pensions.

By Mr. SUTHERLAND: A bill (H. R. 7168) for the relief of the owner of schooner *Sentinel;* to the Committee on Claims.

By Mr. UNDERWOOD: A bill (H. R. 7169) granting a pension to Edward H. Packer; to the Committee on Pensions.

By Mr. WATSON: A bill (H. R. 7170) for the relief of Josiah Ogden Hoffman; to the Committee on Naval Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

285. By Mr. CARSS: Petition of the Federated Trades Assembly of Duluth, Minn., protesting the proposed Bread Trust combination; to the Committee on Interstate and Foreign Commerce.

286. By Mr. CARTER of California: Petition of the New Orleans Cotton Exchange, in reference to the supply of farm labor in the cotton States; to the Committee on Immigration and Naturalization.

287. By Mr. FULLER: Petition of the Illinois Press Association, opposing the printing of stamped envelopes by the Government; to the Committee on the Post Office and Post Roads.

288. Also, petition of the Illinois Press Association, protesting against the printing of return cards on Government stamped envelopes; to the Committee on the Post Office and Post Roads.

289. Also, petition of J. M. Wells Post, No. 451, Department of Ohio, Grand Army of the Republic, urging prompt action by Congress to increase the pensions of Civil War veterans and widows; to the Committee on Invalid Pensions.

290. Also, petition of George Leland Edgerton Camp, No. 32, United Spanish War Veterans, Beaver Dam, Wis., favoring enactment of H. R. 98, for the relief of veterans of the Spanish War; to the Committee on Pensions.

291. Also, petition of Mathia Klein & Sons, of Chicago, protesting against the present postal rates; to the Committee on the Post Office and Post Roads.

292. By Mr. KIESS: Evidence in support of H. R. 1907, granting an increase of pension to Esther E. Wheeler; to the Committee on Invalid Pensions.

293. By Mr. REECE: Petition of Lieut. H. L. McCorkle Camp, No. 2, United Spanish War Veterans, National Sanatorium, Tenn., in behalf of Senate bill 98; to the Committee on Pensions.

294. By Mr. SNELL: Petition for scientific inspection of a device for preventing ships of any size and type from sinking, protected by United States patent 1355656, October 12, 1920, and named Auythistos, and the adoption of same by the proper naval authorities for the benefit of the American marine; to the Committee on Naval Affairs.

295. By Mr. SWARTZ: Evidence in support of H. R. 5650, for the relief of Mrs. Lizzie Shuman; to the Committee on Invalid Pensions.

SENATE

FRIDAY, *January 8, 1926*

(Legislative day of Thursday, January 7, 1926)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Bayard	Fess	King	Schall
Blease	Fletcher	La Follette	Sheppard
Borah	Frazier	Lenroot	Shipstead
Bratton	George	McKellar	Shortridge
Brookhart	Gerry	McKinley	Simmons
Broussard	Gillett	McLean	Smith
Bruce	Glass	McMaster	Smoot
Butler	Goff	McNary	Stanfield
Cameron	Gooding	Mayfield	Stephens
Capper	Greene	Means	Swanson
Caraway	Hale	Metcalf	Trammell
Copeland	Harreld	Neely	Tyson
Couzens	Harris	Norris	Wadsworth
Curtis	Harrison	Oddie	Walsh
Dale	Heflin	Overman	Warren
Deneen	Howell	Pepper	Watson
Dill	Johnson	Pine	Wheeler
Edge	Jones, N. Mex.	Reed, Mo.	Williams
Edwards	Jones, Wash.	Robinson, Ark.	Willis
Fernald	Kendrick	Robinson, Ind.	
Ferris	Keyes	Sackett	

The VICE PRESIDENT. Eighty-two Senators having answered to their names, a quorum is present.

REPORT OF CHESAPEAKE & POTOMAC TELEPHONE CO.

The VICE PRESIDENT laid before the Senate a communication from the president of the Chesapeake & Potomac Telephone Co., transmitting, pursuant to law, the annual report of that company for the year 1925 (the month of December being estimated), which was referred to the Committee on the District of Columbia.

PETITIONS AND MEMORIALS

Mr. WILLIS presented resolutions adopted at a mass meeting held in the Hippodrome Theater at Marietta, Ohio, under the auspices of the Ministerial Association of that city, favoring the participation of the United States in the Permanent Court of International Justice, which were ordered to lie on the table.

He also presented the memorial of Julia Vansky and sundry other citizens of Columbus, Ohio, remonstrating against affiliation of the United States with the League of Nations or participation in the Permanent Court of International Justice, which was ordered to lie on the table.

He also presented a petition of sundry citizens in the State of Ohio, praying for the repeal of the so-called war tax on industrial alcohol used in the manufacture of medicines, home remedies, and flavoring extracts, which was referred to the Committee on Finance.

ENLARGEMENT OF THE CAPITOL GROUNDS

Mr. FERNALD, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 2005) for the enlargement of the Capitol Grounds, reported it without amendment and submitted a report (No. 21) thereon.

BILLS INTRODUCED

Bills were introduced, read the first time, and by unanimous consent, the second time, and referred as follows:

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

By Mr. DILL:

A bill (S. 2297) to provide for handling and rate of pay for storage of closed-pouch mail on express cars, baggage cars, and express-baggage cars, and for other purposes; to the Committee on Post Offices and Post Roads.

By Mr. WADSWORTH:

A bill (S. 2298) to amend section 3 of the act approved September 14, 1922 (chap. 307, 42 Stat. L., part 1, p. 840 to 841); to the Committee on Military Affairs.

A bill (S. 2299) granting the consent of Congress to the Wakefield National Memorial Association to build, upon Government-owned land at Wakefield, Westmoreland County, Va., a replica of the house in which George Washington was born, and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. FERNALD:

A bill (S. 2300) granting an increase of pension to Laura E. Collins (with accompanying papers); to the Committee on Pensions.

By Mr. WARREN:

A bill (S. 2301) authorizing the Shoshone Tribe of Indians of the Wind River Reservation in Wyoming to submit claims to the Court of Claims (with accompanying papers); to the Committee on Indian Affairs.

A bill (S. 2302) for the relief of Elisha K. Henson (with accompanying papers); to the Committee on Claims.

By Mr. COPELAND:

A bill (S. 2303) granting a pension to Harriet I. Gardiner; to the Committee on Pensions.

By Mr. STANFIELD.

A bill (S. 2304) to amend an act entitled "An act to authorize the sale of burnt timber on the Public Domain," approved March 4, 1913; to the Committee on Public Lands and Surveys.

By Mr. SHEPPARD:

A bill (S. 2305) to correct the military record of Sidney Lock; to the Committee on Military Affairs.

By Mr. CAMERON:

A bill (S. 2307) authorizing sale of certain lands to the Yuma Chamber of Commerce, Yuma, Ariz.; to the Committee on Public Lands and Surveys.

By Mr. SCHALL:

A bill (S. 2308) to provide study periods for post-office clerks, terminal, and transfer clerks; and

A bill (S. 2309) to reduce night work in the Postal Service; to the Committee on Post Offices and Post Roads.

By Mr. REED of Pennsylvania (by request):

A bill (S. 2310) to amend the World War veterans' act, 1924; to the Committee on Finance.

By Mr. STANFIELD:

A bill (S. 2311) to define trespass on coal land of the United States and to provide a penalty therefor; to the Committee on Public Lands and Surveys.

ADJUSTMENT OF DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES

Mr. WATSON introduced a bill (S. 2306) to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes, which was read twice by its title and referred to the Committee on Interstate Commerce.

Mr. WATSON. In connection with the bill which I have just introduced, I ask unanimous consent that there may be printed in the RECORD the statement which I send to the desk.

There being no objection, the statement was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

Mr. Alfred P. Thom, general counsel of the Association of Railway Executives, and Mr. Donald R. Richberg, general counsel for the organized railway employees, upon being interviewed this afternoon, gave out the following statement:

"The President of the United States has in more than one message to Congress invited the rail carriers and their employees to confer in the effort to agree upon a method of adjusting labor disputes which will not only be mutually satisfactory and protective of their just rights, but which will also properly safeguard the interests of the public.

"Pursuant to this suggestion representatives of the railroads and representatives of the employees of the carriers have from time to time for a number of months been in conference. An agreement has now been reached, and a bill to carry it into effect will be presented to Congress in the immediate future. The provisions of the bill may be summarized as follows:

"First. That it shall be the duty of the parties to exert every reasonable effort to make and maintain agreements.

"Second. Any and all disputes shall be first considered in conference between the parties directly interested.

"Third. Adjustment boards shall be established by agreement, which shall be either between an individual carrier and its employees, or regional or national. These adjustment boards will have jurisdiction over any dispute relating to grievances or to the interpretation or application of existing agreements, but will have no jurisdiction over changes in rates of pay, rules, or working conditions.

"It is, however, provided that nothing in the act shall be construed to prohibit an individual carrier and its employees from agreeing upon settlement of disputes through such machinery of contract and adjustment as they may mutually establish.

"Fourth. A board of mediation is created, to consist of five members appointed by the President, by and with the advice and consent of the Senate, with the duty to intervene at the request of either party or on its own motion, in any unsettled labor dispute—whether it be a grievance or a difference as to the interpretation or application of agreements not decided in conference or by the appropriate adjustment board, or a dispute over changes in rates of pay, rules, or working conditions not adjusted in conference between the parties. If it is unable to bring about an amicable adjustment between the parties it is required to make an effort to induce them to consent to arbitration.

"Fifth. Boards of arbitration are provided for when both parties consent to arbitrate, also the method of selecting members of the boards and the arbitration procedure. Any award made by the arbitrators shall be filed in the appropriate district court of the United States and shall become a judgment of the court, binding upon the parties.

"Sixth. In the possible event that a dispute between a carrier and its employees is not settled under any of the foregoing methods, provision is made that the board of mediation, if in its judgment the dispute threatens to substantially interrupt interstate commerce, shall notify the President, who is thereupon authorized, in his discretion, to create a board to investigate and report to the President within 30 days from the date of the creation of the board. It is also provided that after the creation of such a board and for 30 days after it has made its report to the President, no change except by agreement shall be made by the parties to the controversy in the conditions out of which the dispute arose.

"It is believed by the representatives of the carriers and the employees that the creation of the machinery mentioned and the opportunity and the obligation to pursue the methods provided will result in the amicable adjustment of all future labor disputes and prevent any interruption of transportation."

CHANGE OF REFERENCE

On motion of Mr. JONES of Washington, the Committee on Military Affairs was discharged from the further consideration of the bill (S. 1835) granting the consent of Congress to George Washington-Wakefield Memorial Bridge, a corporation, to construct a bridge across the Potomac River, and it was referred to the Committee on Commerce.

AMENDMENTS TO TAX REDUCTION BILL

Mr. KING submitted an amendment intended to be proposed by him to House bill No. 1, the tax reduction bill, which was referred to the Committee on Finance and ordered to be printed.

Mr. SHEPPARD submitted an amendment intended to be proposed by him to House bill No. 1, the tax reduction bill, which was referred to the Committee on Finance and ordered to be printed.

PRESIDENTIAL APPROVAL

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that on January 7, 1926, the President approved and signed the joint resolution (S. J. Res. 20) providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress.

AMERICAN AND IMPERIAL TOBACCO COMPANIES (S. DOC. NO. 34)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying report, ordered to lie on the table and to be printed:

To the Senate:

I transmit herewith for the information of the Senate the report of the Federal Trade Commission of its investigation of charges against the American Tobacco Co. and the Imperial Tobacco Co., made in response to Senate Resolution No. 329, Sixty-eighth Congress, second session, dated February 9, 1925.

CALVIN COOLIDGE.

THE WHITE HOUSE, *January 8, 1926.*

SENATOR FROM NORTH DAKOTA

The Senate resumed the consideration of the following resolution (S. Res. 104) reported from the Committee on Privileges and Elections:

Resolved, That GERALD P. NYE is not entitled to a seat in the Senate of the United States as a Senator from the State of North Dakota.

Mr. STEPHENS. Mr. President, three members of the Committee on Privileges and Elections filed a minority report in the matter that is now before the Senate. The conclusion reached by those three Senators is that the Governor of North Dakota had authority to make a temporary appointment to fill the vacancy occasioned by the death of Senator LADD, and that GERALD P. NYE is entitled to a seat in the Senate of the United States as a Senator from the State of North Dakota. There are several very interesting legal propositions involved. One of those is the question that grows out of a constitutional provision contained in section 78 of the constitution of the State of North Dakota. I shall not read the provision, but shall insert it in my remarks if I may have permission.

The VICE PRESIDENT. Without objection, permission is granted.

The section is as follows:

When any office shall from any cause become vacant and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

Mr. STEPHENS. It is not my purpose to discuss that provision of the constitution of the State of North Dakota. I shall content myself simply with saying that a very strong argument might be made to the effect that under that provision of the State constitution the Governor of North Dakota did have the right and was authorized to appoint and to commission Mr. NYE as a Senator from that State. When we consider the history of the Constitution of the United States and all those things that grow out of it and were connected with it, including the relation of the States to the Federal Government, a very strong argument might be made that, due solely and alone to that provision of the constitution, the governor of the State was within his rights when he commissioned Mr. NYE. I simply direct attention to it. That particular legal proposition will be discussed by the able Senator from West Virginia [Mr. NEELY] and I pass from it, leaving that to him.

There are other questions involved that will be discussed by the able Senator from South Carolina [Mr. SMITH]. It is my purpose to direct attention to two propositions. I contend, Mr. President, that the Governor of North Dakota was empowered to issue the commission to Mr. NYE and that Mr. NYE is therefore entitled to a seat in this body.

The first proposition that I shall present is that a United States Senator is a State officer. I realize full well that there has been a great deal of consideration given to the status of a United States Senator, as to whether he is a United States officer, a State officer, or an unnamed something.

Some arguments that have been made through the years would leave him a mere nondescript, a nameless something, a person, of course, performing certain functions but not classified. It has been held by some authorities and in some cases that for certain reasons and for certain purposes a Senator is a civil officer of the United States; for instance, for the purpose of being required to take an oath to support the Constitution of the United States. In other cases it has been held that under certain conditions he will be regarded as a legislative officer of the Federal Government. In other cases it has been held that he is not a civil officer of the Federal Government.

Very respectable authorities have announced the proposition that he is a State officer, and I shall contend most earnestly, Mr. President, that for the purposes of this case, in connection with the circumstances of this matter, Mr. NYE is a State officer. We speak of district officers in our States. What does that mean? Officers elected by the people of a district. We speak of county officers, referring to officers elected by the people of a county. We speak of State officers, referring to officers elected by the people of a State.

It was suggested on yesterday by the Senator from West Virginia [Mr. GOFF] that the labor and activities of a Senator are performed here in the Senate at Washington; that he is acting in a legislative capacity; that he is paid by the Federal Government; that no part of his salary comes from the State. That is all very true, but I ask the Senator these questions: Who elect a United States Senator? The people of the State. Who commissions a United States Senator? The governor of the State from which he comes. Who appoints a United States Senator to fill a vacancy? The governor of the State.

Mr. President, of course the Constitution provides that there shall be United States Senators; it provides the character of their duties, and so forth; the laws passed by Congress make provision for the National Government to pay the salaries of Senators; but the phrase "United States Senator" is nothing but a phrase, nothing but an aggregation of words. There can not be a United States Senator until a person shall have been named as such either by the people of the State from which he comes or by the governor of that State. In either event his commission, his authority to act, his grant of power, rest in the commission which is signed by the governor of the State.

So, Mr. President, we see that, although there is such a thing as a United States Senator, there can be no United States Senator really, effectively, and effectually until the people of the State and the governor of the State shall have acted. Suppose a man should come here without a commission from the governor, of course he would not be recognized and would have no rights. His power to act, his power to serve, his power to become a legislator for the Federal Government reside solely and alone in the power of the people of the State and the governor of the State to act.

So, as I have stated, a man may be a United States Senator and be considered as a Federal officer for the purpose of being required to take an oath to support the Constitution; he may be considered as such for the purpose of being regarded as a legislative agent, a legislator; but, in the real sense, his right to act, his right to take the oath, his right to participate in legislative functions, all go back to the original source of power—to the right of the people of the State and of the governor of the State to act, to elect, to appoint, to commission.

Mr. President, I have said that I have found very respectable authority for my contention that a United States Senator is a State officer. In a book, the title of which is "The Government of the United States," written by Dr. William Bennett Moore, professor at Harvard, I find a broad, bold statement to that effect. After discussing the nature of our Government, the Constitution of our Government, the provisions of law affecting Members of the House of Representatives and Members of the Senate, and so on, he says this:

Congress accordingly is a bicameral convention of State envoys; its Members are officers of the State from which they come—

He was not content with saying that they are officers of the State from which they come; his sentence did not end with that language, but he concludes—

and are not officers of the National Government.

I know very little of this author, but, judging from the position that he holds, or has held at least, I presume that he is an able man, a man of intellect and learning, a man who knows something about the subject he discusses, and he says that United States Senators are State officers and "are not officers of the National Government."

Again, Tucker, in his Constitutional Law, says this:

Nowhere in the Constitution—

Referring, of course, to the Constitution of the United States—

is a Senator or Representative spoken of as an officer of the United States, or even as an officer at all, and in article 1, section 6, clause 2 of the Constitution, the distinction between a Senator and a Representative and a civil officer of the United States is very clearly set forth.

Again, Mr. Tucker says:

States, not men, are constituents of the Senate.

On yesterday the Senator from West Virginia referred to Story on the Constitution. It seems to me, Mr. President, that this authority supports my contention rather than the contention of the Senator from West Virginia. Before quoting from Story I will say that this question was considered in the early days of the history of our country. In the Fifth Congress an effort was made to impeach William Blount, a United States Senator. I recall the argument presented by the Senator from West Virginia, and I wish to state that, from my reading, I have reached the conclusion that the proceeding in that case was dismissed on the ground that William Blount, a Senator spoken of as a Senator of the United States, was not a United States officer.

Judge Story, in that part of his writings that was referred to by the Senator from West Virginia on yesterday, says this:

A question arose upon an impeachment before the Senate in 1799, whether a Senator was a civil officer of the United States, within the purview of the Constitution, and it was decided by the Senate that he was not.

It was decided in those early days that, although referred to generally as a United States Senator, he was not a United States officer.

Judge Story says further:

But it was probably held that "civil officers of the United States" meant such as derived their appointment from and under the National Government and not those persons who, though members of the Government, derived their appointment from the States or the people of the States.

Mr. Story recognized the fact that there are certain persons connected with the administration of the affairs of the Nation, performing certain functions, who derive their authority so to act and to occupy certain positions from the States and from the people of the States; and if that be true, I contend, Mr. President, that such a person is a State officer.

Mr. GOFF. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from West Virginia?

Mr. STEPHENS. I yield; yes.

Mr. GOFF. May I ask the Senator from what source of power or authority the State of North Dakota obtained the right either to appoint or to elect a representative in the Senate of the United States?

Mr. STEPHENS. Mr. President, if I should discuss that proposition fully it would carry us back to the time when the Federal Constitution was written. I want to say, in answer to the Senator's question, that if we simply look to the language of the Constitution it might appear that the authority resides in the seventeenth amendment to the Constitution, because it is stated there that the United States Senate shall be composed of two Senators from each State. Then it provides for the election of those Senators and for making temporary appointments to fill vacancies, and so forth; but, Mr. President, there is more involved in the proposition than the seventeenth amendment.

Mr. GOFF. Mr. President, may I ask the Senator another question in that connection, without meaning to interrupt his line of thought?

The VICE PRESIDENT. Does the Senator from Mississippi further yield to the Senator from West Virginia?

Mr. STEPHENS. Certainly.

Mr. GOFF. Without the provisions of the United States Constitution, to which reference was made yesterday, and to which the Senator has referred, there would be no authority whatsoever in any State either to elect or to appoint a United States Senator, would there?

Mr. STEPHENS. I might say, too, in that connection that without the action of the people of the State and the governor of the State, there could be no such thing as a United States Senator.

Mr. GOFF. Then does not the Senator admit that the origin of the power or the authority on the part of any State to appoint or elect a Senator springs from the Constitution of the United States, both the old Constitution and the new Constitution after it was amended?

Mr. STEPHENS. I will say in answer to that, Mr. President, that as a matter of course when the Constitution was written, when it was adopted by the people of the United States and ratified by the States, it became a contract, an agreement; but there were certain powers retained by the States. There are certain inherent powers in the States; and in this particular kind of matter there is an inviolable power, a power that can not be taken away from the States, regardless of the action of the National Government, regardless of the action of the Senate and the Members of the House, regardless of the action of 47 of the 48 States of the Union; and that is that each State shall be entitled to be represented in this body by two Senators.

Mr. SHIPSTEAD. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Minnesota?

Mr. STEPHENS. Yes; I yield.

Mr. SHIPSTEAD. Is it not a fact that whatever the Constitution of the United States has to do with the office of Senator or his election, it got that authority originally from the States themselves?

Mr. STEPHENS. Certainly.

Mr. SHIPSTEAD. The States retained certain sovereignty and delegated a part to the Federal Government under the Constitution, and there would be nothing in the Constitution about United States Senators if the States themselves had not formed the Constitution and delegated that power to the Federal Government.

Mr. STEPHENS. The Senator has said in a much better way than I could have said what I was trying to say.

Mr. GOFF. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi further yield to the Senator from West Virginia?

Mr. STEPHENS. I do.

Mr. GOFF. I should like to finish the questions; and I am very sorry to interrupt the Senator, but I want to bring out these matters.

Mr. STEPHENS. It is perfectly all right, sir.

Mr. GOFF. In connection with the question just asked the Senator from Mississippi by the Senator from Minnesota, it is a fact, is it not, speaking constitutionally, that the States reserved only the powers they did not delegate to the Federal Government, and that all powers which the States delegated to the Federal Government they did not reserve, and over those powers they have no control or jurisdiction whatsoever?

Mr. STEPHENS. That is very true in a general sense.

Mr. GOFF. In that connection may I not ask the Senator one other question:

If, as a legal proposition, A should request B to appoint for A an agent and in the execution of that commission B should proceed to appoint an agent for A, after making such appointment and clothing this agent with full authority would this agent be the agent of A or the agent of B?

Mr. STEPHENS. I will ask the Senator this question on the subject of agency: It seems that he regards a United States Senator as an agent. Does the Senator regard him as an agent of the Federal Government, or as an agent of the State government?

Mr. GOFF. Of the Federal Government; and I am using the word "agent" in its broad generic sense of the highest type of representative.

Mr. STEPHENS. Mr. President, in answer to this proposition I will say what I was trying to say a moment ago—that certain powers were delegated to the Federal Government by the States. Of course, the Federal Government has the right to exercise those powers. Certain powers were reserved to the States by a general clause in the Constitution; but one specific right was reserved in direct and positive language, and that was the right of each State to have in this body two Senators, and that no State can be deprived of the right to be represented here by two Senators except by its own will.

As I indicated a moment ago, the Constitution may be amended in many particulars. An amendment may be wise or foolish; it may be good, bad, or indifferent; but if three-fourths of the States ratify it, it becomes a part of the Constitution of the United States. Three-fourths, yea, indeed, 47 of the 48 States, can not deprive a single State of its right of representation. That is written into the Constitution of the United States itself.

Going back to what the Senator from West Virginia had to say, of course the phrase "United States Senator" or "Senator of the United States" is a part of the Constitution of the United States. That language need not appear in the constitution of a State. That provision of the Constitution provides that there shall be a Senate, that the Senate shall perform certain functions, that a Senator shall have certain duties, and so forth.

It provides simply a forum; it gives a name to certain persons who shall perform certain duties and certain functions; but we get back to my original proposition that the phrase has no breath of life in it; it is inert, inactive, a dead and useless thing, until the State has acted, the people have voted, and the governor has issued his commission. In other words, the Constitution of the United States provides a forum, a place of action, and it gives a name—a mere name, a designation, if you please—to the officer that shall be delegated by the State to represent it in that forum. But the right of an individual to present a commission and have the right to a seat in the Senate are based upon the authority specifically reserved of the State to select and commission him.

Mr. President, going back to a case cited by the Senator from West Virginia [Mr. GOFF] on yesterday, I now call attention to the Burton case in 202 United States Reports; and I might call attention to several cases.

Mr. GEORGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. STEPHENS. I yield; yes.

Mr. GEORGE. Before the Senator passes to a consideration of the specific cases, recalling what he has had to say generally about the Constitution of the Federal Government and the delegation of powers thereto by the States, I want to direct the Senator's attention just to this thought, because I shall perhaps make some remarks on this matter, and I expect to deal with it from this angle:

It is quite true, of course, that the States existed before the Federal Government existed. It is quite true, of course, that the general Government could not exist if the States were to be at once dissolved; but it is also true, is it not—and I take it that there will be no dispute on this point—that when the States adopted the Federal Constitution, the States nevertheless created a sovereignty here?

There would be no dispute about what the States did. They created here in the General Government a complete and supreme sovereignty. In other words, the States delegated to the General Government certain powers. Those powers are pre-

cisely defined; they are expressly enumerated. With respect to those powers the States can have nothing whatever to do. I am suggesting this thought to the Senator because, when we look at the question broadly, since a Senator of the United States can not exercise a single State power because the State has separated itself from all of the powers which a Senator could exercise, because those powers are reserved exclusively to the Federal Government, I am insisting that in a broad sense, and not from a technical standpoint at all, a Senator of the United States can not be a State officer. Whatever he is, he can not be a State officer.

Mr. NEELY. Mr. President, will the Senator from Mississippi yield to me to ask a question of the Senator from Georgia?

Mr. STEPHENS. I yield.

Mr. NEELY. If a United States Senator is not a State officer, is the Senator willing to say that he is a Federal officer?

Mr. GEORGE. Mr. President, that would, of course, involve some discussion. So far as I am concerned, I think he is a Federal officer but certainly not a State officer. I am merely suggesting this thought to the Senator from Mississippi, because he seemed to be leaving the field of general observation touching the nature and character of the Government itself, and I would like to have him discuss it if he cares to discuss it—that since the States did create a sovereign complete and supreme within its field, since the States delegated to that sovereignty certain powers which excluded the States from any exercise of those powers, how can a Senator of the United States, who must exercise only the delegated powers, be said to be in any sense an officer of the State? In other words, how could a State, through an officer, do what the State itself has made impossible for the State to do; and if the office is to be classified with respect at all to the actual powers exercised by the officer, how can he be said to be a State officer?

Mr. STEPHENS. Mr. President, the Senator from Georgia at first used this language: That in adopting the Constitution and providing for the organization of the National Government the States established a complete sovereignty. I can not agree with that statement. But a little later the Senator said this: That the States established a sovereignty complete in its field. There is a very wide difference between those two statements. There was a complete sovereignty established within certain limitations. Within those limitations the sovereignty of the United States Government, of course, is supreme, it is complete. The States have no power in that field. But following up the Senator's suggestion that a Senator can not longer be considered a State officer because of the establishment of the Federal Government, the adoption of the Constitution, and the fact that a Senator is sent out from the State to labor in this particular field, I do not agree.

Mr. President, it was said on yesterday, and the same suggestion is carried in the language of the Senator from Georgia this morning, that a United States Senator performs no function for the State government.

Mr. GEORGE. The Senator misapprehended me. I said that he exercised no power reserved to the States.

Mr. STEPHENS. All right. What I had particularly in mind was the language used on yesterday by the Senator from West Virginia, quoting from a speech made by Senator Sutherland in the Glass case, where this language is used:

> He discharges no State function.

It occurred to me, from the language used by the Senator from Georgia, that he entertained the same idea. But the question in my mind was just this: Does he perform no function for a State?

All of us are familiar with the proceedings of the Constitutional Convention. We are acquainted with the debates and the writings that followed immediately after the adjournment of that convention, and the discussion for and against the adoption of the Constitution. We know the purposes which inspired many of those debates. We know how greatly interested the States were in that matter, how jealous they were of their rights, how anxious they were to have those rights preserved, how careful they were to see that certain rights were not taken from them; and in order to protect them in those rights it was finally agreed that the Federal Union should be formed and that the Constitution should be adopted, with this provision in it, that the States shall be represented by two persons in the Senate. All that discussion was useless, it was wasted on the air, it was a loss of time. If the States turned over to the Federal Government all their rights and all their powers and all their sovereignty, what use is there in saying that two persons shall come to represent a State unless there is a possibility—aye, I go further than that; unless it is a fact—that the man coming from North Dakota, from Georgia, from Mississippi, as a Senator from that particular State, shall perform some function for the State, shall be able to protect the interests of the State, if the time shall arrive when the interests of the State shall need protection.

Mr. GEORGE. I hope the Senator from Mississippi does not understand that I took any position contrary to that. I stand with him on that, of course.

Mr. STEPHENS. Then, as I understand the Senator, he agrees that a United States Senator does perform some function for his State?

Mr. GEORGE. I agree that the Federal Government itself was created to serve the interests of all the States, and therefore of every State; but what I have asked the Senator to discuss is this, that this was a Government of limited powers, expressly defined, precisely limited; that the States had reserved to themselves all other powers not granted to the General Government; that a Senator of the United States is forbidden to exercise a single power reserved by the States to themselves and can exercise only the powers which the States have voluntarily delegated to the Federal Government. Therefore, with respect to every power exercised by a Senator, he is not, at least, a State officer; that is all.

Mr. STEPHENS. Of course, Mr. President, we are all familiar with the fact that we have a dual form of government here—the National Government and the State governments—and it is very true that this National Government is a government of delegated powers. Every State in the Union is interested in the General Government, is interested in seeing that those delegated powers are carried out, that the rights delegated are exercised. But we must not forget that although we have a great National Government, there is back yonder a State which is a part of this National Government, a State which has an interest in the National Government, a State which is necessary to the National Government, and that without the action of the aggregation of States there can be no Federal Government, there can be no Senate of the United States. My proposition is this, that although there is a Federal Government, there are States which have an interest in the Government, which go to make up the National Government; that those States have rights as well as interests in that National Government, and that under the Constitution of the United States it was provided that each State should have two Representatives in this body. There was no delegation of power to the Federal Government to select Senators. The selection of a Senator is one of the powers specifically reserved to the States, in the Constitution of the United States.

Mr. REED of Missouri. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Missouri?

Mr. STEPHENS. I yield.

Mr. REED of Missouri. If the Senator has concluded that thought in his discussion—and I do not want to draw him away from it—I would like to ask two or three questions for my own information.

Mr. STEPHENS. Very well.

Mr. REED of Missouri. I am asking them of the Senator because he is a member of the Committee on Privileges and Elections. Is any claim made that the action of the Governor of North Dakota in making this appointment is tainted with any kind of fraud, or that there has been any imposition upon the people of North Dakota?

Mr. STEPHENS. In answer to that I will say that I have never heard even the slightest suggestion that there was any fraud in regard to the appointment of Mr. NYE, or in regard to any action of the Governor of North Dakota.

Mr. REED of Missouri. Has there been any protest from North Dakota of any importance?

Mr. STEPHENS. So far as I am advised, there was none. I think, I may say, that I attended every meeting of the committee where this matter was considered, except on one occasion, when an argument was to be presented by some gentleman who was protesting, I was called away and did not hear that argument; but the Senator from Georgia was present at all the meetings, and he can answer the question of the Senator better than I can.

Mr. GEORGE. If I may be permitted, I will say, in answer to the Senator from Missouri, that there was no evidence taken before the committee, but there was a protest made by Congressman BURTNESS—I do not know just on behalf of what body or organization, but on behalf of the protestants in the State of North Dakota. However, there was no evidence taken and no question of fact raised. It was conceded that the whole question was purely legal or a question of proper construction of the Constitution and of the laws of North Dakota.

Mr. REED of Missouri. The protest simply is that the governor did not possess the power?

Mr. GEORGE. Yes; that he did not possess the power.

Mr. REED of Missouri. Is it also true that the governor made the appointment to a time in the early future when an election could be held and he has called that election so that the successor to the present appointee will be chosen at an early date at an election fairly and properly called?

Mr. STEPHENS. I will say in answer to the Senator from Missouri that the Governor of North Dakota has called a special election to fill the vacancy, which election is to be held in June of this year. The Senator, of course, is acquainted with the fact that there is no time fixed in the seventeenth amendment providing for the time of calling an election—in other words, that it shall be within a certain time.

Mr. REED of Missouri. Yes; I understand that. In other words, he has called an election to be held in North Dakota in June which is about as soon as the frost is out of the ground up there and the people can go to the polls.

Mr. STEPHENS. Yes; and there is another reason, I imagine. It is the first state-wide election that will have been held since the death of the late Senator Ladd. We who have been in this body for quite a little while, for a year or more——

Mr. GEORGE. Before the Senator proceeds with his statement will he allow me to make a suggestion right at that point?

The PRESIDING OFFICER (Mr. OVERMAN in the chair). Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. STEPHENS. I yield.

Mr. GEORGE. The fact is that the late Senator Ladd died on June 22, 1925. The further fact is that the election is called, according to the governor's certificate, which is the only evidence upon which we can act, for June 30, 1926, a little more than a year after the death of the late Senator Ladd, and the time therefore necessarily embraces all seasons that they may have in North Dakota.

Mr. REED of Missouri. When was the appointment made which we are now considering?

Mr. GEORGE. On the 14th of November, as I recall it, 1925.

Mr. REED of Missouri. So there was an interval when Congress was not in session, and the office was not filled or attempted to be filled?

Mr. GEORGE. Yes. Another fact is that the late Senator Ladd's term expired on March 4, 1927, and from the date of his death to the end of that term in due course only two sessions of the Congress would intervene, one the long session in which we are now engaged and the other a short session of approximately 90 days. The governor's appointee would hold during the entire long session that the late Senator Ladd had yet to serve.

Mr. REED of Missouri. Mr. President, I simply wanted to ask three questions, and they are being answered——

Mr. STEPHENS. Let me answer one question at a time, if I may.

Mr. REED of Missouri. Certainly; I am speaking by the Senator's indulgence, anyway.

Mr. STEPHENS. With reference to what the Senator from Georgia has said, I was about to say a moment ago that those of us who are acquainted with conditions in that section of the country, as they have been detailed from time to time by Senators from the great Northwest, do not need to be reminded of those conditions. I shall not enter upon the reasons for it, but that section of the country has been made bankrupt, pauperized, the people have been suffering, and there has been financial wreck and ruin in several of those great States out there. The Governor of North Dakota, knowing the condition of his people, doubtless knowing, too, that the expense of the special election would amount to about $200,000 and that that would have to come out of the pockets of the taxpayers of his State, simply waited and did not call a special election and put this great additional burden upon his people. He waited, and when he had determined the matter, he provided for an election of United States Senator to be held the very first time a general election was to be held in his State, when the expense would be practically nothing, if anything at all. I think that the Governor of North Dakota acted with great wisdom in the matter.

Mr. REED of Missouri. Is there a general election to be held in June?

Mr. STEPHENS. Yes.

Mr. NORRIS. It is the primary.

Mr. REED of Missouri. I simply want to ask two or three questions to get at a point in which I am interested, and I will be very brief about it if the Senator will permit me.

Mr. STEPHENS. Certainly.

Mr. REED of Missouri. As I understand, this is the sequence of events: The late Senator Ladd died. Congress was not in session, and the governor did not fill the vacancy or attempt to fill it until about the time Congress was to convene. There was a general election coming on in the month of June, 1926, and in order that the State might be represented in the present session of Congress the governor attempted to make the appointment we are now considering. He issued a commission to Mr. NYE, and Mr. NYE is here presenting that commission. Nobody claims that the governor has perpetrated any fraud. Nobody claims that this is an attempt to misrepresent the State of North Dakota. Nobody claims there is any trick involved in it. The sole question is whether technically the governor had this authority. That is the sole question, is it not?

Mr. STEPHENS. Yes; that is the question involved here.

Mr. REED of Missouri. It seems to me, as nobody is complaining, as there is no trick, as there is no fraud, that a technicality would have to be a very substantial one to bar a State from representation.

Mr. STEPHENS. I agree most heartily with the Senator in that expression.

Mr. President, I was about to refer to the Burton case. I am not going to enlarge upon that case nor upon the Germaine case, nor the Mouat case, all cases decided by the Supreme Court of the United States and all involving the proposition as to whether a United States Senator is a Federal officer. I am going to content myself simply with saying that my judgment is, from a careful reading of those three cases, that the Supreme Court of the United States has held that a United States Senator is not a Federal officer. I notice in the report filed by the able Senator form Montana [Mr. WALSH] in the Glass case that he quoted from the Yarbrough case found in One hundred and tenth United States. From the language of Mr. Justice Miller, referring to a United States Senator, he quoted this language:

> The office, if it be an office—

The Supreme Court there threw doubt upon the matter by saying—

> If it be an office—

discussing the matter with relation to whether he was an officer of the United States. I find, too, that the Senator from Montana in his own language, discussing the proposition as to whether a Senator was a State officer or a Federal officer, recognized the proposition that I advanced early in my remarks, that for certain reasons and for certain purposes and under certain circumstances a United States Senator might be regarded as a Federal officer, but under other circumstances he would not be regarded as a Federal officer.

He referred to a Kentucky case where it was held that Members of the House of Representatives were not State officers, and then the Senator from Montana used this language:

> Under some other circumstances they might have held differently; that is, the words "State officers" may be given one significance in one statute and may be given a broader or narrower significance in another, depending upon what was in the mind of the legislature.

So I say that the Senator means by that language to agree with me that under certain circumstances a man might be properly classed as a Federal officer and under certain other circumstances, although he was the same man holding the same position and laboring in the same field, that he was not a Federal officer. My contention is that for the purpose of election, for the purpose of coming here and representing the interests of the State, he is a State officer.

On yesterday it was suggested, I believe by the Senator from Alabama [Mr. HEFLIN], that in the State of Kentucky the supreme court of that State had held time and again that presidential electors are State officers. They are referred to in the Constitution of the United States, they are provided for by the laws of the National Government, and yet in four or five cases the Supreme Court of Kentucky has held that they were to be regarded as State officers.

Mr. SWANSON. And all their authority for action is derived from the Federal Constitution?

Mr. STEPHENS. That is true.

Mr. SWANSON. Let me ask the Senator further this question: As I understand, his contention is that when the States adopted the Federal Constitution they reserved to themselves as States, as separate entities, the right to send two representatives to the United States Senate.

Mr. STEPHENS. Yes; that is the contention that I have been trying to present.

Mr. SWANSON. That that power was reserved to the States and the Constitution also gives them that power?

Mr. STEPHENS. Yes, sir.

Mr. SWANSON. And that consequently, so far as their qualifications and election are concerned, Senators are elected by State authority, which is not derived from the Federal Government. Therefore when Senators present themselves here they present themselves as representatives of the States or as State officers.

Mr. STEPHENS. That is very true.

Mr. SWANSON. If that contention be true, then there is not justification for refusing Mr. NYE his seat in the Senate?

Mr. STEPHENS. There is none whatever.

Mr. SWANSON. Everybody concedes that.

Mr. STEPHENS. That is true, so far as I know.

Mr. GEORGE. No, Mr. President; we do not concede that at all. Even if Mr. NYE were a State officer, the contention of the majority of the committee is that he is not entitled to his seat; that the Governor of North Dakota was not empowered to make the appointment.

Mr. STEPHENS. That is another legal point which is involved, and which I intend to discuss.

Mr. GEORGE. I did not desire that there should be any misapprehension or misunderstanding about the matter.

Mr. STEPHENS. I was answering a little broadly, but I was answering only for myself.

Reference has been made to the language of the Constitution providing for a Senate. The language of the original Constitution was that—

> The Senate of the United States shall be composed of two Senators from each State.

The seventeenth amendment begins with the same language:

> The Senate of the United States shall be composed of two Senators from each State.

But the seventeenth amendment uses other language with reference to the office of United States Senator; it goes just a little bit further. It describes the man; it designates him; it classifies him.

The Constitution did not say that Senators shall be representatives of the States. The language used is, "two Senators from the State." However, it has been recognized at all times that they were representatives of the States. The seventeenth amendment goes a little further, and, as I have stated, it classifies, designates, and makes the matter plainer. It provides:

> When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies.

Mark the language—

> When vacancies happen in the representation of any State.

Mr. SWANSON. The Constitution does not say a vacancy in the office of Senator.

Mr. STEPHENS. No; but "in the representation of any State," thereby pointing out the fact that a United States Senator is recognized to be not a Federal officer but a representative of a sovereign State.

Mr. GOFF rose.

Mr. STEPHENS. I see that the Senator from West Virgina [Mr. GOFF] desires to ask a question, and I yield at this moment.

Mr. GOFF. Mr. President, I understood the Senator from Mississippi to say in answer to a question propounded by the Senator from Virginia [Mr. SWANSON] that when the States adopted the Constitution they reserved unto themselves certain inherent rights that the Senator now relies upon to justify the Governor of North Dakota in making this appointment. I wish to ask the Senator from Mississippi if it is his contention that when the States adopted the Constitution in 1789 they rereserved to themselves the power that they had expressed delegated to the Federal Government?

Mr. STEPHENS. Of course not. They did not take back any power which they had given the Federal Government. But the States did not delegate to the Federal Government the right to appoint, select, or elect a Senator. The language of the Constitution shows that that power remained in the States.

Mr. GOFF. Was not that the question of the Senator from Virginia?

Mr. STEPHENS. I did not so understand his question. And they did not surrender any powers reserved when the Constitution was adopted.

Mr. GOFF. I may have misunderstood, then, the legal or constitutional import of the question of the Senator from Virginia; but, as I understood the question which he propounded to the Senator from Mississippi, it involved the very proposition which I have now brought to the Senator's attention.

Mr. SWANSON. Mr. President, will the Senator yield to me again?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Virginia?

Mr. STEPHENS. I yield.

Mr. SWANSON. The contention of the Senator from Mississippi, as I understand it, is that the States reserved to themselves, when they adopted the Federal Constitution, the right—they did not get it from the Federal Government, but reserved the right—as independent States, to send two Members to this body, elected by their authority. That was reserved under the Constitution to them, and the Senator from Mississippi insists that when two Members are sent here by the States they are sent here as representatives of the States, and consequently are State officers? I understand that to be his contention?

Mr. STEPHENS. That is my contention exactly.

Mr. GOFF. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield further to the Senator from West Virginia?

Mr. STEPHENS. I yield.

Mr. GOFF. On page 1616 of the RECORD of yesterday—and I make reference to it in order that the Senator from Mississippi may have before him the Constitution and its provisions—I stated there the provisions of the old Constitution, as I termed it, and the new Constitution, meaning the old Constitution as modified by the seventeenth amendment, being the constitutional provisions before the Senate in this issue. I quoted the provision that—

> The Senate of the United States shall be composed of two Senators from each State.

When that provision, which is the old Constitution, appeared in the Constitution as adopted in 1789, it appeared as the direct result of delegated powers from the people of the then States of the Union.

The next provision is—

> elected by the people thereof for six years.

That is the new Constitution.

My contention, Mr. President, yesterday and to-day, as reflected in the questions the Senator from Mississippi has so graciously allowed me to ask, is simply that this constitutional provision is in no sense the outgrowth of any reservation; it is the direct outcome of expressly delegated powers. Those powers were delegated to the Federal Government when the Constitution was adopted, and the fact that they were so delegated was ratified and approved when the States of this Union adopted the Constitution of the United States in 1789. The fact that the Constitution was adopted by the States is in no respect inconsistent with the fact that there was originally a delegation of power which placed it beyond any possible reservation by the States when they adopted the Constitution, which was composed of the powers delegated by the people of the several States.

Mr. STEPHENS. If I caught the Senator correctly in what he had to say, he was talking about the delegation of power by the States to the Federal Government. To what particular power does he have reference? I imagine the power to organize a Senate.

Mr. GOFF. I would say legislative power in the broadest sense of the term.

Mr. STEPHENS. Very well. But we are discussing here the organization of a legislative body, and in this particular instance under this particular provision of the Constitution we are discussing one branch of that legislative body, to wit, the Senate of the United States. What power is granted by the States to the Federal Government in this regard? Nothing more than the right to provide for such a body, such a forum. There can be constituted such a forum, but two from each State shall have the right to come and serve, and act, and perform their functions. That is all that amounts to.

But, as I was saying a moment ago, in the seventeenth amendment Senators were designated as representatives of the States, going back to the proposition that there can not be a United States Senator until the people of the State and the governor of the State have performed certain acts. Therefore, in the circumstances and in view of these facts a United States Senator is a State officer.

Mr. President, I had not intended to address the Senate for more than 30 minutes. I am not going to apologize to the Senate for taking so much time, because all Senators realize that I have been interrupted very frequently. I am glad to yield to interruptions, but I regret that so much

time has been taken. I am going to pass from this proposition and in a very few words state another proposition which is in my mind. It is a proposition which gets back to the point that brought the Senator from Georgia [Mr. GEORGE] to his feet a few moments ago, and has to do with the authority that was granted the governor of the State of North Dakota to make an appointment under the provisions of the particular section of the North Dakota law with reference to filling vacancies.

It is very true the seventeenth amendment provides that—

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies.

I am going to stop right there to say just a word with reference to a proposition that was submitted to the Senator from West Virginia yesterday by, I believe, the Senator from Nebraska [Mr. NORRIS].

I do not agree with the Senator from West Virginia, if I understood him correctly. I wish to say that it is my judgment that under the provisions of the seventeenth amendment the governor has the right without any act of the legislature of his State to issue writs of election. We all know it is a matter of common knowledge, we might say, that we take judicial notice of the fact that there is election machinery in every State; that there are offices to be filled by election, and no special act of the legislature is necessary for the governor to issue writs of election to fill vacancies.

But I proceed with the reading of the seventeenth amendment:

Provided, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

The Senator from West Virginia on yesterday read to this body the statute of North Dakota with reference to filling vacancies. I shall not take the time to read that statute, but it begins with this language:

All vacancies * * * shall be filled by appointment, as follows:

Mr. BAYARD. Mr. President, may I ask the Senator one or two questions at this point?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Delaware?

Mr. STEPHENS. Yes.

Mr. BAYARD. I may anticipate what the Senator from Mississippi has in mind; but does not the Senator admit as a matter of law that under the old form of the Constitution—that is, prior to the adoption of the seventeenth amendment—the only power given to the governor of a State was the power given by the Federal Constitution to fill a vacancy?

Mr. STEPHENS. The provision of the Constitution was, of course, to the effect that when a vacancy occurred the governor might fill it; yes.

Mr. BAYARD. And that was the sole grant of power under which the governor could exercise that function. He had no power under the State constitution or State law. The Senator will admit that?

Mr. STEPHENS. That is the only provision of the Constitution, of course, that refers to the matter—that when a vacancy occurs the governor may fill it by appointment, the appointee to serve until the next meeting of the legislature.

Mr. BAYARD. Let me read the original provision of the Constitution—

and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature—

And so forth.

Mr. STEPHENS. Yes. But that is not a grant of power by the States to the Federal Government. It was, in fact, a reservation of power by the States. The States were the grantors of power; the Federal Government was only a grantee. The powers of that Government are delegated.

Mr. BAYARD. That is the seventeenth amendment, and that was the sole source of power that the governor of a State had to fill any vacancy. He derived no power whatever, nor could he derive any power whatever, from any action of the State legislature up to the adoption of the seventeenth amendment. Is that right?

Mr. STEPHENS. No; the legislature, of course, up to that time, had nothing to do with the matter, if we look only to the language of the Constitution.

Mr. BAYARD. It not only had nothing to do with it, but he had no power to make an appointment.

Mr. STEPHENS. Certainly not, in the sense that I have suggested.

Mr. BAYARD. In other words, his sole power grew out of the Federal Constitution.

Mr. STEPHENS. I will grant that. I want to say, however, while I grant it, that there is rather strong authority—and I think perhaps it will be argued here by another Senator—that does not agree with the contention of the Senator from Delaware; that the inherent powers that reside in the States, that were reserved to the States, and the special reservation made in the Constitution that no State should under any conditions, except of its own will, be deprived of representation in this body, gave the governor of the State authority. I am not arguing that now, however.

Mr. BAYARD. But does the Senator from Mississippi, who is now arguing on behalf of the seating of Mr. NYE, deny that the Constitution prior to the adoption of the seventeenth amendment was the sole source of power in the governor to fill a vacancy?

Mr. STEPHENS. I have quoted, as the Senator has, the language of the Constitution in its original provisions, that vacancies shall be filled by the governor.

Mr. BAYARD. Let me go further than that. Let me read to the Senator the words of the State statute of North Dakota, which was in effect at the time and prior to the time of the passage of the seventeenth amendment touching on this question, the particular section of it which is now relied upon—section 4 of the present act, which was section 1, I believe, of the act preceding it.

Mr. STEPHENS. Yes, sir.

Mr. BAYARD (reading)—

In State and district offices by the governor.

That is, granting him the power.

Mr. STEPHENS. Yes.

Mr. BAYARD. Now, then, if that be true, so far as the governor was concerned, and so far as his power to fill a vacancy in the office of United States Senator was concerned, that act of the North Dakota Legislature was a mere brutum fulmen. Is that right?

Mr. STEPHENS. I will let the Senator place his own construction on the matter. I will place mine on it when I come to answer the general proposition.

Mr. BAYARD. Then I have anticipated the Senator's argument?

Mr. STEPHENS. Somewhat; yes.

Mr. BAYARD. Will the Senator make no reply at this time to that suggestion of mine?

Mr. STEPHENS. I will answer it in a moment; yes, sir.

Mr. BAYARD. Let me go further and develop my whole thought, if I may, at this time. The Senator can take it up later.

Mr. STEPHENS. Very well; I shall be glad to have the Senator do so.

Mr. BAYARD. That being so, assuming that the Senator agrees with me, the legal situation was that at the time of the adoption of the seventeenth amendment there happened to be upon the statutes of North Dakota a provision allowing and empowering the governor to fill certain offices, including State offices. There is no question about that in our minds, I think.

Mr. STEPHENS. Quite true.

Mr. BAYARD. So that, if the contention of the Senator from Mississippi is true, immediately upon the passage of the seventeenth amendment this statute of the State of North Dakota, which was absolutely inoperative up to the time of the passage of the seventeenth amendment to the Federal Constitution, suddenly and by its own virtue was called into being and effect.

Mr. STEPHENS. That is not my contention.

Mr. BAYARD. I am glad it is not. The Senator is coming my way. I am glad of that.

Mr. STEPHENS. I do not think we agree at all on the main propositions; but I do agree that the statute of the State, enacted before the adoption of the seventeenth amendment, gave the governor power to appoint or had any reference to a United States Senator. But four years after the adoption of that amendment to the Constitution the Legislature of North Dakota amended and reenacted the statute to which the Senator refers. It is under that statute that I contend the governor had authority to fill the vacancy.

Mr. BAYARD. Going a little further and anticipating what the Senator manifestly is going to say before he closes, assuming that my argument is sound as far as I have gone, let me call attention of the Senator to the title of the act as reenacted, or to a portion of the act as reenacted after the adoption of the seventeenth amendment. This is part of the act itself. It is in quotations:

An act amending and reenacting section 696 of the Compiled Laws of North Dakota for 1913 relating to filling vacancies.

Then section 4 of this act of 1917 reenacts in ipsissimis verbis section 1 of the preceding act. I submit to the Senator that a statute which, in contemplation of the legal situation, was void and impotent and of no effect before the passage of the seventeenth amendment, can not be made valid or potent by any mere reenactment after the passage of that amendment, if it is done in those same words.

I merely invite the Senator's attention to those thoughts.

Mr. STEPHENS. I thank the Senator. I was about to approach that particular subject when he interrupted me.

I will say, in answer to the questions propounded to me, that I do not contend that prior to 1917 the act of the Legislature of North Dakota with reference to the power of the governor to fill vacancies in State and district offices was broad enough to extend to a United States Senator. I do not think so. At the time this particular legislation was enacted, the Legislature of the State of North Dakota in a general sense, at least, had no authority to empower the governor of the State to fill a vacancy in the Senate. That power was given him by the Constitution.

It is very evident to my mind that when this particular legislation was enacted, years before the adoption of the seventeenth amendment, the Legislature of the State of North Dakota did not have in contemplation giving the governor of the State authority to appoint a United States Senator. That question was discussed at some length in the Glass case, the Alabama case. In that particular case the Governor of Alabama made the appointment, as he claimed, under authority given by the statute of 1909, a statute enacted four years prior to the adoption of the seventeenth amendment. The Senate reached the conclusion, although the majority was only one, that the act was not prospective in its effect; that it did not reach out and meet and cover a condition that arose subsequently.

Here, however, we have an entirely different proposition. The Alabama act was passed four years prior to the adoption of the seventeenth amendment. The North Dakota act was passed—or, to use the exact language, reenacted—in 1917, four years after the adoption of the seventeenth amendment. There is that difference, to say the least, between the Alabama case and the North Dakota case; and that difference is strongly in favor of the North Dakota case.

Mr. NEELY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from West Virginia?

Mr. STEPHENS. I yield; yes.

Mr. NEELY. I have just entered the Chamber. Has the fact also been brought out that the Glass case was decided by a margin of a single vote, 61 votes having been cast, and the precedent, if there be a precedent, established by a margin of only one?

Mr. STEPHENS. One vote; yes. That is correct.

Mr. BAYARD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi further yield to the Senator from Delaware?

Mr. STEPHENS. I yield again; yes.

Mr. BAYARD. Is it the Senator's present contention that the reenactment of the North Dakota statute of 1917 is a definite recognition of the existence of the seventeenth amendment to the Federal Constitution, and so definite as to bring the Nye case within the purview of the power of appointment given to the governor?

Mr. STEPHENS. The Senator is anticipating my argument just a little.

Mr. BAYARD. I do not mean to do that unduly.

Mr. STEPHENS. Of course there can be no controversy over the fact that this North Dakota statute does not refer explicitly, in terms, to a United States Senator; but my contention is that that is not required. If a United States Senator be a State officer, it is not necessary for the legislature of any State, in order to come within the terms of this provision of the seventeenth amendment, to refer in terms to the United States Senate or to a United States Senator. I have tried to argue all along that a Senator, although called a United States Senator, is really a State officer; and if I be correct in that contention I think I am also correct in the statement that it is not required that reference be made to a United States Senator directly, or at all, in order to authorize the governor of the State to appoint under given circumstances.

Mr. GOFF. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from West Virginia?

Mr. STEPHENS. I yield.

Mr. GOFF. Am I correct in understanding the Senator to say that the power and authority of the Governor of North Dakota to make this appointment, under the act of March 17, 1917, is based upon the fact that a United States Senator is a State officer?

Mr. STEPHENS. Some hold to a little different view from mine, and find grant of power and right to act coming from another source, but because of the fact that a United States Senator is a State officer, and because of the fact that the Constitution of the United States, in the seventeenth amendment, provides that in a certain event he may have power, and because of the further fact that the legislature, after the adoption of the seventeenth amendment, did take such action as I believe gave him full authority to act, I contend that the governor did have the authority to fill this vacancy by appointment as he has done.

Mr. GOFF. But if the Senator, speaking for himself and not for anyone else, should agree that a United States Senator is not a State officer, then he would consider that the governor had no power or authority to appoint him under the act of March 15, 1917, would he not?

Mr. STEPHENS. Mr. President, I stated in the beginning that there were several very interesting legal propositions involved in this matter, and I called attention to the fact that under the provisions of section 78 of the constitution of North Dakota the governor was authorized to fill all vacancies.

I made reference also to the history of the constitutional convention, the discussions relating to the adoption and ratification of the Constitution, the fact that one thing was firmly established—that is, that at all times the State had a right to have two representatives in this body, and that there was no power under the sun that could take that right away from it——

Mr. GOFF. The State could take it away itself, could it not?

Mr. STEPHENS. Except the State itself. I said, taking into consideration all those facts, there might be made a very strong argument to the effect that, regardless of the provisions of this law, regardless of whether a United States Senator should be considered a State officer or not, even then the Governor of North Dakota would have authority to make the appointment. I did not say that I went that far, but I said there was good authority for an argument to that effect, and that a strong argument along that line might well be made upon the subject.

Mr. GOFF. The Senator, of course, knows that I do not want to unnecessarily interrupt him, but let me ask him this question, and then I will cease: If the Senator eliminates from the discussion the status of a United States Senator, then the Senator would rely upon the inherent power of the State in its sovereign capacity to appoint a United States Senator?

Mr. STEPHENS. I do not see how we are going to eliminate the status of a United States Senator from this particular proposition.

Mr. GOFF. If the Senator assumes that a United States Senator is not a State officer, that he is a Federal officer, that would eliminate it. Of course, he must be either one of the two.

Mr. STEPHENS. He might very well be called a Federal officer in a certain sense, and yet in another sense, and in a very strong sense, be a State officer. But there are several decisions of the Supreme Court of the United States that hold that a Senator is not an officer of the United States.

Mr. GOFF. If the Senator for the purposes of his argument should eliminate from it the status of a Senator as being a State officer, would he not be reduced to adopt the inherent power of the State as the source of the governor's power to appoint?

Mr. STEPHENS. As I stated a moment ago, there is strong authority—and I imagine it is going to be presented in the Senate—to the effect that under all the circumstances, conditions, and provisions the reserved powers and rights, and so on, there is an inherent power in the State through its properly constituted authority, to wit, the governor, to make provision under certain circumstances for membership in this body.

Mr. GOFF. I understand the Senator's position, and I thank him for his answer.

Mr. STEPHENS. Now, Mr. President, getting back to this statute of North Dakota, it reads:

All vacancies, except in the office of a member of the legislative assembly, shall be filled by appointment as follows:

Then there are four subdivisions, making provision for appointment to fill vacancies by certain authorities and under certain conditions. We are not interested in any except the last, and I will read that in conjunction with the beginning of this statute:

All vacancies in State and district offices shall be filled by the governor.

Mr. KENDRICK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Wyoming?

Mr. STEPHENS. I yield.

Mr. KENDRICK. I want to ask the Senator if at the time the measure was acted upon by the legislature an official record was made of the discussion of the measure; that is, of the enactment or reenactment of this provision authorizing the governor to make appointments? My idea is to determine whether the legislature took account of the possible appointment of a Senator and whether there was discussion for or against authorizing the governor to make such an appointment.

Mr. STEPHENS. As the Senator knows, as a general proposition to say the least, the debates in a State legislature are not taken down by reporters, as they are here, and I presume there was no record made of what was said on this subject in the Legislature of North Dakota. So far as I know, to be frank, there was no discussion. I do not state that as a fact, but I do not know of the matter having been referred to even indirectly. But I do not think that is controlling as to whether there was or not.

Mr. KENDRICK. It is clearly the Senator's opinion that, whether or not authority was conferred, the legislature intended to confer the authority by this act?

Mr. STEPHENS. I think so; yes; and I will give a reason for saying that. On yesterday some reference was made to the legal proposition that every man is presumed to know the law, an old legal maxim. This was the situation that confronted the Legislature of North Dakota in 1917.

The seventeenth amendment to the Constitution of the United States had been adopted four years prior to that time. I do not think it requires any stretch of the imagination to believe that every member of that legislature knew of the adoption of the seventeenth amendment; to say the least, there is a legal presumption that the members knew of the adoption of the amendment.

Mr. KENDRICK. Mr. President——

The PRESIDING OFFICER. Does the Senator yield further to the Senator from Wyoming?

Mr. STEPHENS. I yield.

Mr. KENDRICK. Is it not reasonably safe to assume that if a legislature had had any doubt upon that point there would have been some discussion of the question and that there would have been at least a partial record of the discussion?

Mr. STEPHENS. I imagine that if the matter had occurred to them there would have been such a discussion that it would have attracted the attention of somebody, and the matter would have been brought here before the committee to that effect; although that is of course speculation on my part.

Mr. KENDRICK. Is it not reasonable to believe that if there had been objection to the granting of this authority to the governor the title of Senator would have been referred to and excluded specifically or exempted from the list of appointments?

Mr. STEPHENS. I think so.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. STEPHENS. In just a moment. This provision makes only one exception, and that is in regard to the office of a member of the legislative assembly. That is due to the fact, as I understand it, that there is a constitutional provision in North Dakota which prohibits the legislature from providing that the governor shall have authority to appoint someone to fill a vacancy in the legislative assembly of the State. That is the only exception that was made.

I now yield to the Senator from Georgia.

Mr. GEORGE. I wanted to make just this inquiry at this point, in the nature of an observation, and I hope in furtherance of a real desire to get the truth of this case. The question asked of the Senator from Mississippi would presuppose that the legislature intended to give to the governor the power to make an appointment. I want to call attention to the fact that the legislaure is not required to give the governor the power under the seventeenth amendment. The legislature is merely authorized to give the governor the power, and five States have expressly refused to give the governor that power.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator from Mississippi yield to me to ask a question of the Senator from Georgia?

Mr. STEPHENS. I yield to the Senator.

Mr. ROBINSON of Arkansas. The statement has been repeatedly made in the Senate, and I have also read it in the press, that the act of 1917, which I understand the Senator from Mississippi is now discussing and which it is claimed by some Senators gives the Governor of North Dakota the power to make a temporary appointment pending an election, was merely a reenactment of an old statute.

Mr. GEORGE. A reenactment, except as to the office of State's attorney.

Mr. ROBINSON of Arkansas. What was the object of reenacting the old statute?

Mr. GEORGE. To amend it so as to give the governor, who had also the power to remove a State's attorney, the power to advise and consent to his appointment by a board of county commissioners. But the point I was making—and it is not either in the interest of Mr. NYE or against Mr. NYE—is that the mere failure of the legislature to name the office of Senator by title, or to exclude that office, would not indicate that it intended to deal with the question at all, or was considering the question at all, because the legislature had the option of giving the governor this power or withholding the power from the governor.

Mr. ROBINSON of Arkansas. Mr. President, as I understand, the correct rule of interpretation respecting the intention of a legislature is to be arrived at from the language the legislature employs.

Mr. GEORGE. Entirely so.

Mr. STEPHENS. Now, Mr. President, I want to hurry along, and I shall take up right now the proposition advanced by the Senator from Georgia [Mr. GEORGE].

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. STEPHENS. I yield.

Mr. COPELAND. I think it is hardly fair to let this question of the Senator from Arkansas pass by without a little fuller answer.

Mr. STEPHENS. I expect to get to that in a moment.

Mr. COPELAND. Very well, if the Senator is going to answer it. Of course I think there is an answer.

Mr. STEPHENS. If I do not happen to strike the answer the Senator from New York has in his mind, I would be very happy to have him rise and make his suggestion.

Mr. COPELAND. I thank the Senator.

Mr. STEPHENS. What I was going to say was just this: The Senator from Georgia suggests that the seventeenth amendment does not require that the legislature of a State grant authority to the governor to fill a vacancy by a temporary appointment; that it simply grants the power to the legislature. That is very true. But in considering the proposition as to whether the legislature had this in mind, whether they were likely to take affirmative action on this matter, whether they were likely to accept the grant of the power to exercise the right to give the governor authority in this kind of a case, we might very well for a moment look at the history of the State of North Dakota with reference to this particular matter of filling vacancies.

From the earliest time that there has been a State known as North Dakota it has been the policy of that State to permit, really to require, that all vacancies be filled by appointment. Going back to the constitution adopted when statehood was granted, we find that a provision is therein contained to the effect that all vacancies shall be filled by appointment. It will take only a moment to quote the language:

SEC. 78. When any office from any cause shall become vacant, and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

I maintain that it was written in the constitution that the governor should fill all vacancies by appointment unless specific provision had been made in the constitution or in the law for the filling of the vacancy in some other way.

Mr. ROBINSON of Arkansas. That language is just as broad as it could be made.

Mr. STEPHENS. Certainly it is.

Mr. ROBINSON of Arkansas. If the legislature had desired to anticipate any possible vacancy and yet employ language that would authorize the governor to fill it, it would not have used different language than that which was actually used.

Mr. STEPHENS. That is very true. Now, following up that thought, the legislative history of the State shows that at all times provision has been made by enactments for the filling of vacancies, so I may safely say that it was the policy of the State of North Dakota to fill vacancies by appointment.

Mr. BAYARD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Delaware?

Mr. STEPHENS. I yield.

Mr. BAYARD. The Senator does not contend that it conferred any power or thought of power upon the governor to fill a vacancy in the office of United States Senator, does he?

Mr. STEPHENS. I am not discussing that particular question at this time.

Mr. BAYARD. But I am asking the question of the Senator.

Mr. STEPHENS. That is about what the Senator asked some moments ago, and what the Senator from West Virginia asked, and I made answer then, and I shall not repeat it except to make brief reference to the fact that there is very respectable authority to the effect that this was a grant of power when taking into consideration the history of the formation of our Government, the Constitution, and the reservation of certain rights. I am not going to enter into any discussion of the matter further at this moment.

I come back to the proposition that it has been the policy of the State of North Dakota to fill vacancies by appointment. On yesterday the Senator from Pennsylvania [Mr. PEPPER] asked the Senator from West Virginia [Mr. GOFF] a question as to whether it was not reasonable to suppose that because the legislature made no reference to the office of United States Senator that they did not intend to give the governor power to appoint. I think the Senator from West Virginia agreed with him. I do not.

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Missouri?

Mr. STEPHENS. I yield.

Mr. WILLIAMS. My understanding of the statement of the Senator from West Virginia, who is out of the Chamber just at this moment, was that there was some implication that arose from the fact that the legislative offices in the State of North Dakota were precluded from appointment by the governor of that State, and he thought some strength could be gained from the position taken by the Senator from West Virginia because of that fact that the governor had no power to appoint legislative officers and had the power only to appoint administrative officers.

Mr. STEPHENS. I do not think that adds any strength to the proposition——

Mr. WILLIAMS. It may not.

Mr. STEPHENS. Because before the seventeenth amendment was adopted, even before the grant of statehood of North Dakota, there had been a provision in the Constitution of the United States that in certain circumstances, when a vacancy occurred at least, that a governor might appoint. As a matter of fact, it is a matter of history that before the adoption of the seventeenth amendment to the Constitution of the United States the Governor of North Dakota had appointed two Members to this body to fill vacancies. I do not think that the legislature would shy off from the proposition of granting the governor of the State power to appoint to fill a vacancy in this body simply because the appointee would be regarded as a legislative officer and the constitution of the State provided that in their own legislative assembly vacancies should be filled by election.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. STEPHENS. Certainly.

Mr. GEORGE. I want to ask the Senator if it were not a direct grant of power to the governor in any State under the old Constitution to make a temporary appointment until the next general assembly in that State or the next legislature in that State could meet? Of course, if there happened vacancies in North Dakota under the old Constitution—that is, under the Constitution prior to the ratification of the seventeenth amendment thereto—the governor had direct power from the Federal Constitution itself and his appointments would have been good.

The point I raised a while ago and undertook to make clear was that the mere silence of the legislature in this statute, its mere failure to enumerate the office of United States Senator, could not fairly lead to the inference that they thought they had already included it any more than we could fairly infer that they did not wish to confer upon their governor the power and that they thought they had excluded it, so the argument would get nowhere. That is the only point I wanted to make.

Mr. SMITH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from South Carolina?

Mr. STEPHENS. Certainly.

Mr. SMITH. In view of the statement the Senator has just made in reference to history in making those appointments in North Dakota, it seems to me that the analogy between the seventeenth amendment and the old provision of the Constitution about filling those vacancies is not dissimilar, as some of my legal friends would have us believe. Under the old Constitution the power was granted by the very wording of the Constitution itself; that is, the governor had the right to appoint. We simply changed that and made it obligatory upon him to issue writs of election on account of the nature of the procedure of selecting a United States Senator being changed from the legislature to the people. It now makes it mandatory upon him to issue writs of election in lieu of the legislature. But recognizing that circumstances may develop when it would not be convenient to issue those writs, as in this very case, it provided that the legislature might enable him to do as he had done heretofore and fill temporarily the place. Therefore having exercised that power under the old law of filling the vacancy, now under the changed nature of it they simply in my opinion take the view that, whether the legislature acted or whether they did not, he must issue writs of election. The law as it then stood and as it was reenacted enabled him to make the appointment because he must issue writs of election whether the legislature acted or not. Therefore they took the view "we have already acted as to the appointing power. The Constitution demands that you shall call a special election," which he did, and I maintain that every phase of the requirements of the seventeenth amendment has been amply met by the procedure in North Dakota.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield further to the Senator from Georgia?

Mr. GEORGE. I do not want to trespass upon the Senator's time. I have very great respect and love for him, and I know he has occupied the floor much longer than he expected because of these questions.

Mr. STEPHENS. Yes; very much longer.

Mr. GEORGE. But I would like to make this observation in answer to the Senator from South Carolina, with the permission of the Senator from Mississippi.

Mr. STEPHENS. Pardon me. I understand the Senator is going to speak a little later. Would he be willing to defer his statement until he takes the floor in his own right? I do not care to yield for him to reply to the Senator from South Carolina. If he desires to ask me a question, I shall be glad to yield to him.

Mr. GEORGE. I did not know I was going to speak.

Mr. STEPHENS. I judged so from what the Senator said a moment ago. I regret not to yield to the Senator from Georgia, but I did not intend to occupy more than 30 minutes, and I have been kept here more than two hours by constant interruptions. I regret those interruptions merely because of the time they have taken, not because they worried me but because they perhaps kept others here much longer than they would have otherwise remained.

It is stated that this is simply a reenactment of a statute, and that therefore it could not make a new condition. I want to submit the proposition that if in 1913, when this law was first enacted with reference to filling vacancies, there had been only five State offices and that later on by action of the people of the State, in amending their constitution or by action of the legislature, there was a sixth State office created, in that event if it should be argued that the law itself was not broad enough and could not be expanded to cover the sixth case, still the governor of the State would have the power to fill that particular vacancy, if one should occur in the sixth office, without legislative action because of the provision of the Constitution to which reference has been made. I go further and say that when the statute was reenacted in 1917 it covered by its terms the sixth office, and it covered in its legal effect the sixth office. I am now, in this connection, considering the office of United States Senator as the new, or sixth, office, because of the change in the provisions of the Constitution of the United States with reference to the filling of vacancies by appointment.

This is an effort on the part of the legislature to authorize the filling of vacancies. What vacancies? All vacancies. The language is as broad as can be used. Suppose, as I said a moment ago, that in 1917 there were only five State offices. Of course, at that time it would apply only to the five. But suppose, further, that in 1915 there was a sixth office created. Then in 1917, when the statute was reenacted, by its terms it covered the sixth office.

I ask this question: What different language could have been used? The language is "all vacancies," covering the new office also. In other words, the thing the legislature has in mind, having in view the constitutional provision with reference to vacancies, was the filling of all vacancies and not the filling of a vacancy in a particular office. The subject was general. The language was broad; it was comprehensive; it covered "all vacancies." The subject of legislation was the filling of vacancies.

Mr. SMITH. Mr. President, may I ask the Senator just one question?

Mr. STEPHENS. Yes, sir.

Mr. SMITH. If, as has been contended, the legislators did not under the provisions of the seventeenth amendment intend to grant the governor that power, would it not have been very easy for them to have said "except"?

Mr. STEPHENS. It would have been the easiest thing in the world for them to have done so and the sensible thing to have done. As a matter of fact, considering that the seventeenth amendment authorized the Legislature of North Dakota to provide for making temporary appointments to fill vacancies, the legal presumption is that it was the intention of the legislature to include this particular kind of case if the language is broad enough to include it. As the legislature was authorized to provide for such a contingency, it is presumed that the members of the legislature had knowledge of this authority—the question then being considered being the provision for filling vacancies, and the language used "all vacancies." There was only one exception, and I contend that the legal presumption is that the legislature intended to follow the settled policy of the State and grant the governor authority to appoint in this kind of case.

There have been so many interruptions that I have occupied the floor longer than I had intended; but I want to discuss for a few moments the construction that I think should be given to the North Dakota statute—the 1917 statute—with reference to filling vacancies. It is my contention that this statute gave authority to the governor to appoint Mr. NYE.

If a Senator is a State officer, it is unnecessary that the legislature should have made direct reference to that office when it came to legislate upon the subject of filling vacancies. Provision for filling vacancies could very well be made by the inclusive term "all State offices." Neither the secretary of state, attorney general, supreme court judge, nor any other State officer was referred to by name, yet no one will contend that it was not the intention of the legislature to provide for the filling of a vacancy in any of those offices, nor that the governor under this statute would not have authority to do so.

It is a well-settled principle of law that it is presumed that the legislature is acquainted with the law; that it has a knowledge of the state of it upon which it legislates.

So I say that as the legislature had authority to provide that the governor might make an appointment to fill a vacancy in the representation of the State in the United States Senate this legal principle may be invoked; and it is conclusive on the proposition, if the language used is comprehensive enough to include a United States Senator, without making any reference to that particular office or to the seventeenth amendment.

Having in mind the authority of the legislature under the provisions of the seventeenth amendment to grant the governor the power to fill a vacancy of this character, I invoke another legal principle—the presumption against any intention to surrender public rights.

This is applicable, I think, because of the settled policy of the State with reference to filling vacancies and of the interest of the State in having its full representation in the Senate. It can not be denied that it is to the interest of the State to have such provision for filling vacancies. Otherwise, it might happen, at a time when matters of grave importance were being considered in the Congress, that the State would be entirely without representation.

Again, it is a rule of statutory construction that statutes will be construed in the most beneficial way, which their language will permit, to prevent injustice, to favor public convenience, and oppose all prejudice to public interests.

It has also been held that in the consideration of the provisions of any statute, they ought to receive such construction, if the words and subject matter will admit of it, so that the existing rights of the public be not infringed.

Another rule of statutory construction is that statutes which concern the public good or the general welfare are liberally construed. Too, the settled legislative, constitutional, and political policy may be inquired into in determining what construction should be given to the language.

On the question of liberal construction of statutes, I quote the words of Justice Field in Fourth Sawyer, 302:

> Instances without number exist where the meaning of words in a statute has been enlarged or restricted and qualified to carry out the intention of the legislature.

I have referred to the Sawyer case in order to suggest that if it should be granted that a Senator is not a State officer this would not necessarily decide the matter. In other words, the legislature had the right to give the governor authority to fill such a vacancy temporarily, and if the legislature made an effort to legislate upon the subject, believing that a Senator is a State officer and for that reason included him in the provisions of the statute without direct reference, it would be highly technical and unjust and unfair to the State of North Dakota for the Senate to hold that Mr. NYE should be denied a seat and the State denied representation.

The mere literal construction ought not to prevail if it is opposed to the intention of the legislature. The natural import of words may be greatly varied to give effect to the fundamental purpose of the statute. Courts look at the language of the whole act, and if they find in any particular clause an expression not so large and extensive in its import as those used in other parts of the statute—if upon a view of the whole act they can collect from the larger and more extensive expressions used in the other parts the real intention of the legislature—it is their duty to give effect to the larger expression.

As has been stated, the seventeenth amendment granted authority to the legislature of the State to give the governor power to fill vacancies temporarily; this statute was reenacted after the adoption of that amendment; the manifest and expressed purpose of the statute was to provide for filling vacancies; the language was as broad and comprehensive as could be used—"all vacancies."

Mr. President, I submit that when we apply these principles of law and statutory construction to the condition that existed with reference to the provisions of the United States Constitution, the policy of the State, and the facts of this case, a reasonable conclusion is that the action of the governor was valid and that Mr. NYE should be seated.

In 1919 the Legislature of North Dakota enacted a statute providing for a petition for the recall of officers under certain circumstances. The applicable language is:

> The recall of any elective, congressional, State, county, judicial, or legislative officer.

It is argued that because the terms "congressional" and "State" are used that this indicates that the legislature recognized a distinction between "congressional" and "State" officers; that by this language it was declared that Senators are not State officers. That construction does not necessarily follow. In fact, it is my opinion that it was proposed to give the people the right to recall a Senator and indicates in the clearest and strongest way that he was regarded as a State officer. If not, what right would the people of the State have to recall him?

Of course, this statute was enacted after the statute on the subject of vacancies; but it throws light upon how Senators were regarded in that State. In using the term "congressional," the legislature simply adopted the term that is commonly used in referring to such officers and merely as a matter of designation; but the whole purpose and effect of the act shows plainly that it was in the mind of the legislature that what is generally referred to as a "congressional" office is really a State office.

It is argued, also, that the governor had no right to fill the vacancy, even though a Senator is a State officer and even though the legislature recognized him as such and endeavored to empower the governor to fill a vacancy in that office. This contention is based upon the fact that the seventeenth amendment only gave the legislature authority to authorize the governor to make "temporary" appointments, while the legislative enactment gives him power to "fill vacancies."

There is no merit in this argument. The answer is that a greater includes a lesser. Of course the governor's commission and his right to appoint will have to be considered and construed in the light of the seventeenth amendment; and the time that his appointee can serve will be limited and restricted by the provisions of that amendment.

In support of this contention I refer to two cases. In Scott *v.* Flowers (61 Nebr. 620) the court said:

> The legislature has clearly here expressed its will, but it has gone too far; it has transcended the limits of its authority. It has, in an unmistakable manner, signified its purpose not only to authorize the commitment to the reform school of certain children under 16 years of age, but also children beyond that age, who, although guiltless of crime, have evinced a criminal tendency and are without proper parental restraint. The legislature having declared its will, and its command to the courts being in part valid and in part void, the decisive question is, Shall section 5 be given effect so far as it is in accord and agreement with the paramount law? It seems that both good sense and judicial authority require that the question should receive an affirmative answer.

The other case is Commissioners *v.* George (104 Ky. 260). In this case there appears this language:

> The act construed created a board of penitentiary commissioners, and provided that of the first board one should hold for two years, one for four years, and one for six years, and that their successors should be elected for six years. The constitution forbade the creation of

officers with a longer term than four years. The act was held to create a four-year term and to be valid as so modified.

The language employed shows that the general assembly was willing that one of the commissioners should hold his office for six years—two years longer than the constitution will permit. As the general assembly expressed a willingness that one of the commissioners should hold for two years longer than the constitution permits, it is certainly reasonable to conclude that it was the will of that body that the commissioners should hold for four years, as this term is necessarily included in the longer one which is fixed. To hold the act void in so far as it makes the term six years instead of four, still the balance of the act is complete and enforceable. The purpose and intent of the general assembly that the commissioners should manage and control the penitentiaries can be effectuated by eliminating from the act that part which attempted to make terms six instead of four years.

The holding of these cases is to this effect: That the appointment is not invalidated, but that the time the appointee can hold is limited; that when some one is duly elected, the person who was appointed is no longer entitled to hold the office.

The Governor of North Dakota complied with the letter, the purpose, and spirit of the Constitution when he commissioned Mr. NYE to serve until an election should be held in compliance with a writ of election issued by the governor, as required by the seventeenth amendment.

Membership in this body is not a privilege granted to States, but it is a right—not a privilege granted by the Federal Government in the Constitution to the States, but a right specifically retained by the States in express and positive language. The right of a State to be represented here is a sacred, substantial, and inviolable right. We are not interested in individuals. As I have already quoted from Tucker on constitutional law—"States, not men, are constituents of the Senate." We are not interested in a man by the name of GERALD P. NYE. We are interested, however, in giving to a sovereign State its fullest right to be represented in this great body; a right, as I said a moment ago, which is sacred, substantial, inviolable.

As was suggested by the Senator from Missouri [Mr. REED], there is not even the slightest suspicion of fraud here. Mr. NYE's commission is not tainted. Nobody has had the temerity to come before the committee and say that he comes to this body with a commission obtained by fraud; that there was any corruption in connection with the matter. There is nothing of that kind in it.

Mr. SMITH. Has there been any intimation from the State of North Dakota to that effect?

Mr. STEPHENS. I have heard absolutely nothing which reflected upon the Governor of the State of North Dakota, nor anything that reflected upon Mr. NYE, who presents the governor's commission here. The only contention that has ever been made has been, as was stated by the Senator from Georgia [Mr. GEORGE], that the governor's authority to appoint was questioned; in other words, there is simply a bare, bald legal proposition involved here. I am unwilling, Mr. President, on a bare technicality to say to a sovereign State that it shall be denied representation in this body. According to my judgment, there must be a splitting of hairs, there must be a resting of the case upon a slight technicality, to say that Mr. NYE shall not be allowed to sit in this body.

I take the broad ground that in a matter of this kind if there is any doubt about the proposition the doubt should be resolved in favor of the validity of the action of the governor and of the commission issued to Mr. NYE. If it were a question between NYE and the United States, a different proposition would be involved; he would be simply an individual; but here we have a man presenting himself, coming as a representative from a sovereign State, armed with a commission which was signed by the governor of that State, stating that he shall serve here until a special election shall have been held. It is my honest, sincere judgment as a legal proposition that we should give not NYE but the State of North Dakota the benefit of that doubt, and that we should hold that Mr. NYE is entitled to a seat in this body.

Mr. FRAZIER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MCNARY in the chair). The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Butler	Deneen	Fletcher
Bayard	Cameron	Dill	Frazier
Blease	Capper	Edge	George
Bratton	Caraway	Edwards	Gerry
Brookhart	Copeland	Ernst	Glass
Broussard	Couzens	Ferris	Goff
Bruce	Curtis	Fess	Gooding
Hale	Lenroot	Pepper	Stanfield
Harreld	McKellar	Pine	Stephens
Harris	McKinley	Reed, Mo.	Swanson
Harrison	McLean	Reed, Pa.	Trammell
Heflin	McMaster	Robinson, Ark.	Tyson
Howell	McNary	Robinson, Ind.	Walsh
Johnson	Mayfield	Sackett	Warren
Jones, N. Mex.	Means	Schall	Watson
Jones, Wash.	Metcalf	Sheppard	Williams
Kendrick	Neely	Shipstead	Willis
Keyes	Norris	Shortridge	
King	Oddie	Simmons	
La Follette	Overman	Smith	

The PRESIDING OFFICER. Seventy-seven Senators having answered to their names, there is a quorum present.

Mr. NEELY. Mr. President, permit me to preface my remarks with the observation that, like the Sabbath, the seventeenth amendment to the Constitution of the United States was made for man, and not man for the amendment; that the amendment was made for the people of the United States, including the people of the State of North Dakota, and not the people of either the Nation or the State for the amendment.

Also permit me to predict that if Mr. NYE is denied his seat in the Senate a majority of the votes effectuating this unfortunate consummation will be supplied by the so-called "stand-pat" or "old-guard" Republican Members of this body.

Mr. President, the question before the Senate may be concisely stated thus:

Is GERALD P. NYE entitled to a seat in this body as a Senator from the State of North Dakota?

The facts and circumstances from which the question arises are as follows:

On the 22d day of June, 1925, a vacancy occurred in North Dakota's representation in the Senate by reason of the death of Senator Edwin F. Ladd, of that State.

On the 14th day of November, 1925, the chief executive of North Dakota, Gov. A. G. Sorlie, appointed Mr. GERALD P. NYE, whose personal qualifications are unquestioned, temporarily to fill the vacancy.

It is provided in the credentials issued by Governor Sorlie that Mr. NYE shall represent the State of North Dakota in the Senate "until the vacancy caused by the death of EDWIN F. LADD is filled by election, duly called for June 30, 1926." Thus Mr. NYE's membership in the Senate is in any event limited to the brief term of 7 months and 16 days. The length of this term is in striking contrast to that of the terms of other appointees now occupying seats in this Chamber. For example, the distinguished senior Senator from Massachusetts and the all-powerful and equally successful chairman of the Republican National Committee has been given by appointment membership in the Senate for a term extending from the 13th day of November, 1924, to election day (the 2d day of November), 1926.

A majority of the members of the Committee on Privileges and Elections, to which Mr. NYE's appointment was referred, have reported that the appointee is not entitled to a seat in the Senate on the ground that—

> the Governor of North Dakota had no authority under the Constitution of the United States and the constitution and laws of the State of North Dakota to make the appointment.

On the other hand, a minority of the members of the committee believe that the constitution and statute law of the State of North Dakota in effect at the time Mr. NYE's credentials were issued fully authorized Governor Sorlie to make the appointment.

Manifestly the question at issue is exclusively one of law. The law directly or indirectly involved consists of the following:

(1) The last clause of Article V of the Constitution of the United States.

(2) That part of the seventeenth amendment to the Constitution of the United States which provides for the filling of vacancies which may occur in the representation of any State in the Senate.

(3) Section 78 of the constitution of North Dakota.

(4) Section 696 of the Code of North Dakota, as amended by chapter 249 of the session laws of 1917.

That part of Article V of the Constitution of the United States above mentioned is, in effect, a solemn mandate to the Members of this body to seat Mr. NYE. It is in the following explicit language:

> No State, without its consent, shall be deprived of its equal suffrage in the Senate.

That part of the seventeenth amendment to the Constitution of the United States, which is the "storm center" of this contest, is as follows:

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election, as the legislature may direct.

The first of the above-quoted authorities demonstrates the fact that the people, in adopting the Constitution, not only intended that every State in the Union should at all times be fully represented in the United States Senate, but that they were also so solicitous to prevent their intention in this particular from being defeated that they wrote into the organic law an express prohibition against depriving any State of its representation, or, in other words, of either of its representatives in this body.

With laudable fidelity to the foregoing provision of the Constitution of the United States, in commendable obedience to the constitution and the statute law of his own State, and in a praiseworthy effort to obtain for North Dakota the full representation in this body to which it is justly entitled, Governor Sorlie appointed Mr. NYE a Member of the United States Senate.

Unhappily, a majority of the Committee on Privileges and Elections are as unwilling for the appointee to occupy his seat as the husbandmen in the parable were determined that the heir of the householder should not possess his father's vineyard.

Those opposed to the seating of Mr. NYE contend that his appointment is invalid for the reason that the Legislature of North Dakota has not, since the adoption of the seventeenth amendment, passed a law conferring upon the governor the power to make the appointment under consideration.

It is submitted by the minority of the committee that this contention is invalid and that for many reasons it should not be sustained.

The purpose of the seventeenth amendment was obviously not to deprive any State of its representatives in the Senate, but to provide for representation in this body that would be more responsible to the people and responsive to the will of the people than representatives in the Senate formerly were when chosen by the legislatures of the States as provided by the original organic law.

If interpreted according to the spirit which actuated its adoption, and in such a manner as to make effective its manifest intention, the following language of the seventeenth amendment, "the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election," will become, in substance:

The executive of any State, if authorized by law to do so, may make temporary appointments until the people fill the vacancies by election.

In adopting their constitution in 1889, the people of North Dakota not only anticipated the contingency which has recently arisen in their State, but the adoption of the seventeenth amendment as well, and happily provided in appropriate language the means of avoiding a vacancy in North Dakota's representation in the United States Senate.

Section 78 of the constitution of North Dakota, which has been in effect continuously since 1889, is as follows:

When any office shall from any cause become vacant, and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

Mr. BAYARD. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Delaware?

Mr. NEELY. I yield.

Mr. BAYARD. I call the attention of the Senator from West Virginia to the fact that prior to the adoption of the constitution of the State of North Dakota in 1889 there was in existence an instrument known as the Federal Constitution, adopted in 1788. Under that Constitution provision was made for the filling of vacancies in the office of United States Senator. That provision was in substance—I do not give the exact words—that the executives of the several States might fill the vacancies in the event of death or resignation; so that long before the adoption by North Dakota of its constitution in 1889 provision was made for the filling of a vacancy in the office of United States Senator.

When North Dakota became a State, and so became entitled to representation in the Federal Senate by two Senators, and after those two Senators were duly inducted into office under the provisions of the Federal Constitution, had there been a vacancy prior to the adoption of the seventeenth amendment, does the Senator think the clause which he has just quoted from the North Dakota constitution was in any way an enabling clause giving to the Governor of North Dakota any power to fill a vacancy in the office of United States Senator?

Mr. NEELY. I think the provision I have quoted authorized the governor to make an appointment to fill a vacancy in the Senate.

Mr. BAYARD. In other words, he had a power over and above the power given to him by the Federal Constitution?

Mr. NEELY. I certainly do not think that this provision of the constitution of North Dakota subtracted anything from the governor's power. I think that it simply meant what it said, and that it gave him authority to fill vacancies in the circumstances specified.

Mr. BAYARD. I take it for granted that the Senator will admit that the Governor of North Dakota, prior to the adoption of the seventeenth amendment, had full power under the Federal Constitution to fill a vacancy in the United States Senate. Unquestionably that is true.

Mr. NEELY. I do not doubt that that is a correct statement of the law.

Mr. BAYARD. And he had that power under the Federal Constitution. Now, does the Senator say that he had a dual power to make the same appointment?

Mr. NEELY. I do not.

Mr. BAYARD. Does the Senator say that he had an added power, then?

Mr. NEELY. He needed no added power prior to the adoption of the seventeenth amendment.

Mr. BAYARD. Does the Senator say that if no power had been conferred by the Federal Constitution he would have had power to make the appointment?

Mr. NEELY. If there had been no Federal Constitution there would have been no United States Senate, and consequently no power of appointment to fill a vacancy in that body.

Mr. BAYARD. That is not my question, if the Senator please. My question is this: If, prior to the adoption of the seventeenth amendment, the Federal Constitution had made no grant of power to the State executive to fill a vacancy in the office of United States Senator, does the Senator think that the mere conferring of power by the State constitution would have given him any such power?

Mr. NEELY. I do not.

Mr. BAYARD. The Senator does not?

Mr. NEELY. I do not.

Mr. BAYARD. That is what I want to know.

Mr. SMITH. Mr. President, let me ask a question. If that power had not been delegated to the Federal Government, surely it either inhered in the people, or, through the people, was in the governor, in view of the fact that there was no delegated power to say how a vacancy should be filled, certainly it was reserved to the State, and the governor might have had that power.

Mr. BAYARD. Mr. President, may I interrupt just for a moment to answer the suggestion of the Senator from South Carolina? He presents a very extraordinary proposition. He says that merely because a State adopts a certain constitution——

Mr. SMITH. No; I have no reference to the constitution.

Mr. BAYARD. Let me finish this. The Senator says that because a State adopts a certain constitution, and in that constitution clothes the governor with power to fill all State offices, that in itself grants a power, other things being equal, to fill the office of United States Senator, in the event that the Federal Constitution does not give him that power. One State may adopt a constitution giving that power, and another State may not.

Mr. SMITH. Oh, no. If the Senator will allow me, all I had reference to was this, that there was no provision in the Constitution for or against an appointment to fill a vacancy in the office of Senator or Representative. Certainly the power rested with the people of the several States to express themselves as they saw fit, but in the event—as happened—that the Federal Government, through the power delegated by the several States, had said that the governors should have the power to fill these vacancies, the mere fact that the Legislature of North Dakota reenacted in effect what was already granted to the governor, as the Senator said, did not add to or subtract from the power.

Mr. BAYARD. Mr. President, how will the Senator answer the statement made by the Senator from West Virginia a moment ago in answer to my question, that in the event that the Federal Constitution had made no provision for the appointing power in the Government, he was of the opinion that the State constitution could not give the governor such power?

Mr. NEELY. Mr. President, proceeding from the point at which I was interrupted, attention is invited to the fact that sec-

tion 18 of the constitution of North Dakota authorized Governor Sorlie to fill the vacancy occasioned by the death of Senator Ladd, because all concede that if the Legislature of North Dakota, composed of the servants of the people of that State, had enacted a law since the adoption of the seventeenth amendment conferring upon the governor the power which section 78 of the constitution of North Dakota confers upon him, then there could be no question about the validity of Mr. NYE's appointment. But surely the masters or principals, the people of North Dakota, have a right to do for themselves, through the instrumentality of a constitution adopted by their own votes, whatever their servants or agents, the members of the Legislature of North Dakota, could do for them. Therefore section 78 of the constitution of North Dakota conferring upon the governor power to fill all vacancies, for the filling of which no mode is provided by the constitution or law of the State, authorized Governor Sorlie to appoint Mr. NYE.

But the objection is made in the report of the majority of the committee that the provisions of section 78 of the constitution of North Dakota do not apply in this case, because a mode for filling the vacancy in question is provided by the seventeenth amendment. But the majority obviously misconceive the meaning of the language "no mode is provided by the constitution or law for filling such vacancy" when they construe it to mean "provided by the Constitution of the United States." Of course, the Constitution and the law referred to in section 78 of the constitution of North Dakota were, respectively, the constitution and the law of that State. Any other interpretation would be absurd, for the reason that, subject to a very few exceptions, State authorities have nothing to do with the enforcement of the Federal Constitution or Federal law.

But the minority of the committee concede that section 78 of the constitution of North Dakota is applicable to this case only in the event of there having been no mode provided by the constitution or law of the State for filling the vacancy under consideration.

Passing from the constitutional provisions of North Dakota to a consideration of its statutes, we find the following in chapter 249 of the session laws of 1917:

Be it enacted by the Legislative Assembly of the State of North Dakota—

(1) That section 696 of the compiled laws of North Dakota for 1913 be amended and reenacted as follows:

"SEC. 696. Vacancies, how filled: All vacancies, except in the office of a member of the legislative assembly, shall be filled by appointment as follows:"

* * * * * * *

4. In State and district offices, by the governor.

The seventeenth amendment to the Constitution was ratified in the year 1913. Thus, the foregoing law was enacted by the Legislature of North Dakota four years after the ratification of the seventeenth amendment, when every member of the legislature must be presumed to have been familiar with the amendment's requirements. The minority contend that this statute of North Dakota clothed Governor Sorlie with ample authority to appoint Mr. NYE a member of the Senate.

But the majority protest that—

(1) The legislature did not intend that the language "all vacancies, except in the office of a member of the legislative assembly," should include a vacancy in the representation of North Dakota in the United States Senate; and

(2) That this law is not applicable to the case of the appointment of a United States Senator for the reason that he is neither a State nor a district officer.

To the first of these objections we reply that the expression "all vacancies" is as broad and as comprehensive as it is capable of being made by the English language. If "all vacancies" do not comprehend a vacancy in the United States Senate, then we challenge the majority to suggest any language that would include a vacancy in the Senate.

As to objection No. 2, we, of course, concede that a Member of the Senate is not a district officer, but as to the contention that he is not a State officer within the meaning of North Dakota's legislative enactment, we appeal from the report of the majority of the committee to decisions of the Supreme Court of the United States, which we conceive to be considerably higher authority and to afford a safer precedent for us to follow.

In the Burton case (202 U. S. 344) the Supreme Court says:

While the Senate, as a branch of the legislative department, owes its existence to the Constitution, and participates in passing laws that concern the entire country, its Members are chosen by the State legislatures and can not properly be said to hold their places under the Government of the United States.

And in the case of the United States *v.* Mouat (124 U. S. 307), the following appears:

Unless a person who is in the service of the Government holds his place by virtue of an appointment by the President, or of the courts of justice, or heads of departments, authorized by law to make such appointment, he is not strictly an officer of the United States.

It is submitted that if a United States Senator is not strictly an officer of the United States, he must necessarily be an officer of the State from which he is elected or appointed.

Dr. William Bennett Moore, of Harvard, in his interesting and instructive book, The Government of the United States, says:

The States, as such, are equally represented by each having two Members in the upper branch of Congress, the Senate. The people of the several States, on the other hand, are represented by a varying number of Representatives in the lower branch of Congress. In both cases the unit of representation is the State. Congress, accordingly, is a bicameral convention of State envoys; its Members are officers of the State from which they come, and are not officers of the National Government.

In view of the foregoing it is submitted that for the purposes of this case, at least, a United States Senator is a State officer within the meaning of chapter 249 of the 1917 session laws of North Dakota, and that, by enacting the statute before quoted the Legislature of North Dakota fully complied with the provision of the seventeenth amendment relative to empowering the governor to make temporary appointments to fill vacancies in North Dakota's representation in the Senate, and that, accordingly, Governor Sorlie's act in appointing Mr. NYE to a seat in the Senate was explicitly authorized by law.

Thus, those who oppose the seating of Mr. NYE are, so far as their objections have been assigned of record, confronted with the dilemma—if the North Dakota statutory law under consideration provides for the filling of a vacancy in the State's representation in the United States Senate, then the majority of the committee have no case; but if the law in question does not apply to the filling of a vacancy in the United States Senate, then, in the language of section 78 of the constitution of the State, "No mode is provided by the constitution or law (of North Dakota) for filling such vacancy," and section 78 of the constitution itself becomes applicable to the case, its condition that, "No mode is provided by the constitution or law for filling such vacancies," is fulfilled, and Governor Sorlie is, by the section under consideration, empowered to fill by appointment the vacancy occasioned by the death of Senator Ladd.

With the desperation of drowning men clinging to straws, the majority contend that neither section 78 of the constitution of North Dakota, nor the State statute we have considered, are applicable to the case before the Senate, for the further reason that the constitutional provision was adopted long before the seventeenth amendment was ratified, and that the statute, being substantially the reenactment of a preexisting law of North Dakota, is simply a continuation of the old law, which was passed many years before the seventeenth amendment was ratified.

The majority supplement this contention with the additional one that the seventeenth amendment contemplates and requires an affirmative act of the legislature subsequent to the adoption of the seventeenth amendment in order to give effect to the provision of the amendment sanctioning appointments by the chief executive of the State temporarily to fill vacancies in the United States Senate. This contention is not only invalid but upon analysis it becomes absurd.

Mr. MCKELLAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Tennessee?

Mr. NEELY. I do, with pleasure.

Mr. MCKELLAR. Let us suppose that the Legislature of the State of North Dakota had, in the very words of the seventeenth amendment, provided that the governor be empowered to make temporary appointment to the office of United States Senator; that that was already the law in the State of North Dakota. Was it argued that it would be necessary, under the seventeenth amendment, for another legislature to reenact the same law, and say that the purpose of reenacting that law was to carry out the provisions of the seventeenth amendment? Surely no one could have made an argument of that kind.

Mr. NEELY. That, I regret to say, was most emphatically contended. I believed then, and I believe now, that the contention is absurd.

A sound principle or a sensible theory can be applied from zero to infinity without becoming ridiculous. Let us apply this test to the contention in question.

Suppose that the Legislature of North Dakota had been in session the day before the seventeenth amendment was ratified, and that in anticipation of the ratification it had passed a law in the most appropriate language empowering the governor of the State to make temporary apointments to fill vacancies in the United States Senate.

Suppose that this law had been made effective from the day of its passage, and that after enacting it the legislature adjourned.

The following day the seventeenth amendment was ratified and became effective.

If on the third day after the enactment of the law a vacancy in the State's representation in the United States Senate had occurred by death, will any sane man contend that it would have been necessary for the governor, at an expense of many thousands of dollars to the taxpayers of North Dakota, to reconvene that legislature for the sole purpose of reenacting the identical law that had been passed but three days before in order to empower the chief executive of the State to make a temporary appointment to fill the vacancy in the Senate?

The bare statement of this question renders it preposterous and makes an answer superfluous.

But high legal authority speaks to the point in the following language:

> Where an amendment of the constitution of this State, providing for the election of sheriffs by the people, directed also, that this should be done in such manner as should be prescribed by law it was held that this clause did not limit the exercise of power on this subject to a legislature convened after the amendment was consummated. (Pratt *v.* Allen, 13 Conn. 119.)
>
> The act approved March 18, 1873, "to set apart one-half of the public domain for the support and maintenance of public schools," was evidently passed in anticipation of the adoption of the amendment to the constitution allowing land donations to railroads, and it was competent in the legislature to so enact; it is therefore constitutional. (G. B. & C. Ry. Co. *v.* Gross, 47 Tex. 428.)

Mr. President, as nature abhors a vacuum, so government abhors a vacancy in office. Supplementary to this observation is the admitted fact that the applicable rules of construction require that constitutional provisions and statutory enactments relative to executive appointments to fill vacancies should be construed, if possible, so as to effectuate the intention rather than to adhere to the letter of either the organic or statutory law.

> In the main, it may be said that the Executive's power of provisional appointment is given for the purpose of providing against the temporary lapse of a governmental function as a result of there being in office no legal incumbent to exercise that function. It would seem, therefore, that, whenever possible, the statutory and constitutional provisions should be so construed as to diminish rather than increase the possibility of official vacancies. (22 R. C. L. 442.)

In rendering the famous antitrust decisions the Supreme Court of the United States adopted the rule of reason. In passing upon Governor Sorlie's act in appointing Mr. NYE, and the latter's right to a seat in the Senate, the Members of this body should at least be as liberal with Mr. NYE as the Supreme Court has been with the trusts. The application of the rule of reason to the case before us will result in Mr. NYE's being seated by an overwhelming majority.

Mr. BAYARD. Mr. President, may I ask the Senator a short question?

Mr. NEELY. Certainly.

Mr. BAYARD. If I understood the argument of the Senator from West Virginia correctly, his proposition is this, that inasmuch as the seventeenth amendment was pending for some time previous to its adoption by the necessary number of State legislatures, it would be deemed that the legislatures of the several States had knowledge of it——

Mr. NEELY. O, Mr. President, everyone knows that Andrew Johnson, a Senator from Tennessee, in 1860 introduced a resolution providing for the popular election of United States Senators, and that the question was pending from then until through the long-continued efforts of the Democratic Party the seventeenth amendment was finally adopted in 1913.

Mr. BAYARD. Assume that the Legislature of the State of North Dakota, in its session just prior to the time when the necessary number of legislatures ratified the amendment, had seen fit to use almost the exact language of the seventeenth amendment, authorizing the Governor of North Dakota to make an appointment in the event of a vacancy; but suppose that the ratification did not come until three or four months after the passage of such an act by the North Dakota Legislature. Does the Senator think that the passage of such an act by the North Dakota Legislature would be a constitutional or a valid act empowering the Governor of the State of North Dakota to make an appointment thereafter in the event of a vacancy?

Mr. NEELY. Why would it not be?

Mr. BAYARD. I will answer the question with a question, if I may. What power had the North Dakota Legislature at that time to pass any such act?

Mr. NEELY. Does the distinguished Senator from Delaware contend that a legislative body can not anticipate a constitutional amendment by passing a law that will be valid after the amendment has been ratified?

Mr. BAYARD. In anticipation of a constitutional amendment?

Mr. NEELY. Yes.

Mr. BAYARD. Yes; I do.

Mr. NEELY. Then let me urge the able Senator from Delaware to read the cases of Pratt *v.* Allen (13 Conn. 119) and the G. B. & C. Ry. Co. *v.* Gross (47 Tex. 428), from which I previously quoted and thus be convinced that at least two courts of last resort have decided that his contention is invalid. Would not those decisions change the Senator's opinion?

Mr. BAYARD. I will say frankly to the Senator that they would not. They are very interesting cases, but they are sporadic cases at best.

Mr. NEELY. I am reminded of the classical couplet—

> The two-edged tongue of mighty Zeno who,
> Say what one would, could argue it untrue.

Mr. JONES of New Mexico. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from New Mexico?

Mr. NEELY. I do.

Mr. JONES of New Mexico. Is it not true that the Volstead Act——

Mr. NEELY. I fervently hope that the Senator from New Mexico is not going to involve us with the prohibition question. [Laughter.]

Mr. JONES of New Mexico. Is it not true that the Volstead Act was passed before the eighteenth amendment became a part of the Constitution of the United States and in anticipation of that constitutional amendment?

Mr. NEELY. The Volstead law was passed before the eighteenth amendment went into effect; but may I say to the Senator from New Mexico that I hope the statute of North Dakota in question will be better enforced in this case than the Volstead law is being enforced in certain places that I shall not name.

Mr. JONES of New Mexico. I simply referred to it in support of the statement which the Senator from West Virginia is making as being a precedent established by the Congress of the United States.

Mr. NEELY. I am very much obliged to the able Senator for the illustration he has supplied me. I think it is in point.

Mr. JONES of New Mexico. I did not intend to bring in here any discussion of the advisability, or otherwise, of the Volstead law.

Mr. NEELY. Mr. President, there has been much quibbling in the debate in the committee and on the floor about the difference in the phraseology of the statute of the State of North Dakota and the language of the seventeenth amendment to the Federal Constitution—the latter providing for "temporary appointments," while the former provides for the "filling of vacancies."

Let me observe that there is here involved the same "substantial" difference as that which existed between Lewis Carroll's delightful creations known as Tweedledum and Tweedledee. No one could possibly tell them apart.

It is unfortunate that hypercritical lawyers, in arguing their cases, find it more important to preserve the dead letter of an instrument than to defend the rights of a live people. It is a tragedy that they frequently crucify a principle in order to apotheosize a technicality. It is a calamity that it is impossible for them to learn that the law, including the seventeenth amendment to the Constitution of the United States, was made for the people, and not the people for the law.

Let us decide this case according to the spirit of the constitution and the law of North Dakota, and give Mr. NYE his seat. Let us repudiate the decision rendered several months ago by the stand-pat Members on the other side of the Chamber, when the senior Senator from New Hampshire [Mr. MOSES], as reported by the press, sent a brief to the Governor of North

Dakota, notifying him, in effect, that no appointment he might make to fill the vacancy under consideration would be honored by the Senate.

Why was such a decision made? Because the Governor of North Dakota is a member of the Progressive Farm Labor Party and not a stand-pat Republican. I can readily understand why the distinguished Senator from New Hampshire would not expect Governor Sorlie to commission a reactionary to represent the State of North Dakota in the United States Senate. But I know of no reason why we should help the old guard to rob the people of North Dakota of their representative in this body.

Mr. President, the minority of the committee believe that Mr. NYE is thoroughly qualified in every particular to discharge the duties of a United States Senator, and that the spirit of the seventeenth amendment, the spirit of the constitution, and the spirit of the statute law of North Dakota all demand that we give him his seat.

But if constitutional provisions and amendments and statutory enactments all fail to move the members of the "old guard" of the Republican Party to help us seat Mr. NYE, then let me appeal to the Republican Senators for the same liberality of action in this case that they manifested in deciding the Newberry case, when they gave to a man a seat in this Chamber under circumstances never before countenanced by any legislative body.

Let me remind those who voted for Newberry, some of whom have not taken a single progressive step in the memory of man, that they established a precedent in that case which consistency demands that they follow by voting on every occasion, and under all circumstances, for the seating of any man or woman who knocks for admission to this Chamber.

I shall now proceed to resurrect Banquo's ghost, which ought to make numerous distinguished gentlemen on the other side of the aisle turn as pale as Macbeth at the feast. Let me remind you of the iniquity of the Newberry case, and of the fact that when he presented his credentials here, polluted with moral turpitude as black as the darkness of midnight, you accepted them and made him a Member of this body.

Please permit me to refresh your recollection of the infamy of the Newberry case by reading from a speech of one of the wisest, most statesmanlike, and most progressive Republican Members that ever sat in this body. I refer to the late Robert M. La Follette, of Wisconsin, whose brilliant son now occupies his father's seat in this Chamber, and who, incidentally, has demonstrated his popularity among the people of Wisconsin, to the utter confusion of his enemies and the unspeakable delight of his friends. I read from volume 62, part 13, of the CONGRESSIONAL RECORD of the Sixty-seventh Congress, as follows:

> Mr. President, these are the facts that will hereafter be accepted as proven and established for all time to come after the Senate has given its decision on the case now under consideration:
>
> (1) That a sum of money admitted to have been at least $195,000, and alleged with ample supporting proof to have reached between $250,000 and $300,000, was expended in the primary election in Michigan in 1918 for the purpose of controlling the result of the Republican primary.
>
> (2) That the expenditure of this sum of money did control the result of the primary, the candidate in whose behalf it was spent having been declared nominated by a narrow margin over his opponent.
>
> (3) That a substantial portion of this great sum of money was expended for purposes specifically declared illegal by the laws of Michigan.
>
> (4) That this money was expended in violation of the State law limiting expenditures to $3,750, and in violation of the Federal corrupt practices act then in force limiting expenditures to $10,000.
>
> (5) That this money was raised and expended by a committee the organization of which was suggested, the chairman of which was selected, and the methods and policies of which were approved by Truman H. Newberry, the sitting Member.
>
> (6) That Mr. Newberry was, throughout the campaign, in daily communication—by letter, telegraph, and telephone—with the campaign manager actively engaged in the expenditure of this large sum of money whose selection he had approved, whose methods he repeatedly indorsed and ratified, and to whose activity in the campaign, by his own admissions, he owed his nomination and subsequent election.
>
> (7) That the raising and the expenditure of the vast sum that is admitted to have been expended in this contest in Michigan, and the methods employed in its expenditure, were so open and so notorious as to put the sitting Member upon full notice.

Those are the things that Senator La Follette said had been proved against Newberry.

Then the resolution was submitted and a vote on it was had. The resolution is in the following words—and I regret that the distinguished senior Senator from Ohio [Mr. WILLIS], on whose motion the resolution was amended in an important particular, is not present:

> *Resolved*, (1) That the contest of Henry Ford against Truman H. Newberry be, and it is hereby, dismissed.
>
> (2) That Truman H. Newberry is hereby declared to be a duly elected Senator from the State of Michigan for the term of six years commencing on the 4th day of March, 1919, and is entitled to hold his seat in the Senate of the United States.
>
> (3) That whether the amount expended in this primary was $195,000, as was fully reported or openly acknowledged, or whether there were some few thousand dollars in excess, the amount expended was in either case too large, much larger than ought to have been expended.
>
> The expenditure of such excessive sums in behalf of a candidate, either with or without his knowledge and consent, being contrary to sound public policy, harmful to the honor and dignity of the Senate, and dangerous to the perpetuity of a free government, such excessive expenditures are hereby severely condemned and disapproved.

And here is the list of immortals, including the present distinguished Presiding Officer of the Senate [Mr. MCNARY] who voted to adopt that resolution and give Newberry a seat.

Messrs. Cameron, Cummins, Curtis, Edge, Ernst, Fernald, Gooding, Hale, Harreld, Kellogg, Keyes, Lenroot, McKinley, McLean, McNary, Oddie, Pepper, Phipps, Shortridge, Smoot, Stanfield, Wadsworth, Warren, Watson of Indiana, Weller, and Willis.

Let me ask these Republican Senators who voted to seat Newberry, including my good friend from Indiana [Mr. WATSON], who is a member of the Committee on Privileges and Elections, when their names are called on the Nye case, if they are going to strain at a North Dakota gnat after they swallowed a Michigan camel in the Newberry case. [Laughter.]

Mr. WATSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Indiana?

Mr. NEELY. With pleasure. I hope I am going to get an answer to my question.

Mr. WATSON. The Senator is going to have an answer as quickly as I can give it to him.

Mr. President, I was a member of the Committee on Privileges and Elections and a member of the subcommittee that heard the Newberry case from start to finish. I listened to every iota of testimony adduced, and, on my honor and my responsibility as a Senator I came to the conclusion that he should be seated, and so reported from the subcommittee to the full committee. I defended that view on the floor of the Senate.

I have no apology to make for my vote in that case. I believed then I was right, and I believe now that I acted in accordance with my own conscience and in accordance with the circumstances of the case then presented, and, with what I now know of that case, if I had it to do over again I would vote precisely as I voted then.

Just what relationship there is between the Newberry case and the Nye case is not apparent. We are not seeking to "expel" NYE. It is only a legal question as to whether the Governor of North Dakota had any authority to appoint him. My own view is—and I have come to it reluctantly—that the governor had no authority to appoint him. I listened to the evidence; I listened to the arguments before the committee, as my friend from West Virginia did, and I have come to that conclusion. There can not be any politics in it. It can not matter to this side of the Chamber, and not much to the other side, as to what happens, because it is my view that if Mr. NYE shall be excluded upon this legal question, when June comes, in all probability he will be nominated and elected and sent back here. Therefore, there is nothing involved in it except a mere question as to whether or not, acting under his authority constitutionally, the governor had the right to appoint. That is the sole question involved.

There is no proposition of turpitude involved here; there is no proposition of corruption involved here; there is nothing that in any wise relates to the Newberry case, as it was then portrayed by my friends on the other side of the Chamber and on every stump throughout the whole Republic. And at the end of that campaign, I may say to my friend, notwithstanding all the efforts of those who were opposed to Mr. Newberry, the country went Republican just the same, and in the whole United States there was not a vote lost on the Newberry case to those who had voted to seat him here.

I lived in Indiana, right next to Mr. Newberry, and I never lost a vote on that proposition in Indiana, because the people believed that I had voted in accordance with my own conscientious convictions, as I did, and as all those who sat over here did.

Mr. NEELY. No; if the Senator will pardon me, the people of Indiana voted the Republican ticket. Evidently they were not thinking about qualifications when they were casting their votes in the Senator's State.

Mr. WATSON. No; I will say to my friend that the people in Indiana have voted the Democratic ticket, except when they have had proper candidates, quite as often as they have voted the Republican ticket.

Mr. NEELY. I sincerely hope that they will be fortunate in nominating some proper candidates in the State in the future, not for the purpose of ousting my distinguished friend—because there is nobody in the Senate for whom I entertain a more friendly feeling—but simply to provide us some additional progressive votes.

Mr. WATSON. I thank the Senator.

Mr. NEELY. But, Mr. President, what my good friend has just said shows that my prediction is going to be fulfilled. Every newspaper reader knows that the distinguished gentleman is catalogued as one of the most conservative Republican members of this body. So we know now that the old guard of which he is a member is not going to permit Mr. NYE to occupy his seat.

Mr. SHORTRIDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from California?

Mr. NEELY. I do.

Mr. SHORTRIDGE. May I ask the distinguished Senator from West Virginia whether his animadversions aimed at our side of the Chamber apply with equal force to his distinguished colleages upon the other side who, I have reason to believe, will agree with us or many of us that the Governor of North Dakota was without authority to appoint Mr. NYE? Why does the Senator aim his shafts at us, suffering his colleagues yonder—whom I respect so highly—utterly to escape? And, if the Senator will pardon this interruption——

Mr. NEELY. I shall be glad to answer.

Mr. SHORTRIDGE. I have thought, up to entering the Chamber a few moments ago—apologizing for not being here all the while the Senator was addressing the Senate——

Mr. NEELY. It is a matter of great regret to me that the Senator was not here.

Mr. SHORTRIDGE. It has been a great loss to me that I was not here.

Mr. NEELY. I concede that.

Mr. SHORTRIDGE. I had thought that we were concerned immediately with determining whether under the seventeenth amendment to our Constitution and the laws of North Dakota the governor had the power to appoint a very honorable gentleman a Senator of the United States.

Mr. NEELY. May I interrupt the Senator there long enough to say that he is getting so much in this question that I shall have to answer it by sections; and I wish to answer the last section now, if the Senator will permit me——

Mr. SHORTRIDGE. Yes, sir.

Mr. NEELY. Has not the distinguished Senator long since learned that Goldsmith accurately described the Senate in his immortal lines, in which he said:

> Where village statesmen talked with looks profound
> And news much older than their ale went round,

And that we talk about everything here?

Mr. SHORTRIDGE. I have; and I remember still further lines from the same poem by Oliver Goldsmith.

Mr. NEELY. I knew the Senator would.

Mr. SHORTRIDGE. I remember this, and—with great respect for West Virginia I say it—I think it applies to one of its representatives here:

> In arguing, too, the parson owned his skill,
> For e'en though vanquish'd he could argue still.

Mr. NEELY. The Senator has robbed me of the latter part of my quotation, which I expected to supply after the Senator had taken his seat; but I wish to answer his first question now by saying that I have not directed my shafts at those on this side for the reason that so far as I know, and so far as the RECORD discloses, no Democratic Senator voted to seat Newberry. I am talking now to Senators who did vote to seat him, and did seat him over the bitter protest of every Democrat and every Progressive in this body.

Mr. SHORTRIDGE. If the Senator will pardon me once more——

Mr. NEELY. I am delighted to yield.

Mr. SHORTRIDGE. I rarely indulge in interruptions. I do not often do so because rarely does an interruption add to the advancement of an argument, and generally it is designed to embarrass or frustrate or divert.

Mr. NEELY. Oh, it will not embarrass me in the least.

Mr. SHORTRIDGE. I repeat, therefore, and the question is simple: First—and I approach the subject with the very highest respect for Mr. NYE. There is nothing here that involves his character, nor the good character or high standing of the Governor of North Dakota. I have assumed, I say, that the question was simply this: Did the governor, under the seventeenth amendment, which is the supreme law of our land, and the constitution and the statutes of North Dakota, have the power to make this appointment? That is the only question; and may I ask the Senator if he will be good enough in his argument to respond to this series of questions:

First, the seventeenth amendment is the supreme law of the land.

Second, the constitution of North Dakota, and the several statutes enacted by its legislature must, of course, conform to, and in a sense be subservient to, obedient to, the seventeenth amendment to the Constitution. Now, did the legislature carry out the provisions of the seventeenth amendment in the act which has been here discussed so much?

Mr. NEELY. Mr. President, if the Senator had been present he would know that that question has already been answered.

Mr. SHORTRIDGE. It may be so.

Mr. NEELY. I addressed myself to it before the Senator honored me by listening to my discussion.

Mr. SHORTRIDGE. Our contention, as a purely intellectual matter, is that the only power that the governor would have would be to make a temporary appointment, and the power to call an election so that the people of the State could elect a Senator for the unexpired term. If the Senator has answered these questions satisfactorily, I shall look over his remarks; but does the Senator realize that his contention is defeating the very purpose of the seventeenth amendment, the high purpose——

Mr. NEELY. The Senator, I hope, will let me answer some of his questions. I can not remember all of them. Let me answer that, and then I will yield for as many as the Senator wishes to ask.

Mr. SHORTRIDGE. I shall be glad if the Senator will answer the last one.

Mr. NEELY. To deprive Mr. NYE of his seat in the Senate would be to defeat the purpose of the seventeenth amendment, which was made not to rob States of their representation in this body, but to give them representatives who would be more responsive to the peoples' will.

Mr. SHORTRIDGE. Will not the Senator admit that the dominant purpose of the seventeenth amendment was to give the people of the States the right to choose their Senators?

Mr. NEELY. Let me answer that before the Senator asks another question.

Mr. SHORTRIDGE. Certainly.

Mr. NEELY. I will admit that.

Mr. SHORTRIDGE. Now, why are you defeating that purpose?

Mr. NEELY. Wait. I will not yield for the Senator to make a speech. I will yield for him to ask me questions provided he will let me answer them. If he will not wait, I will not yield at all.

Of course I understand the purpose of the seventeenth amendment; and if the Senator from California had been in the Chamber he would know that I called attention to the fact, or at least indicated, that the spirit of the amendment has been religiously carried out in this case by limiting Mr. NYE's appointment to the short term of 7 months and 16 days. The distinguished senior Senator from Massachusetts [Mr. BUTLER] and the chairman of the Republican National Committee received his appointment to a seat in this body for two years lacking eleven days under a statute that you have held was valid, and I have no doubt that it is; but the Governor of North Dakota was so thoroughly actuated by the spirit of the amendment that instead of attempting to give to Mr. NYE a term of two years in the Senate, as the Governor of Massachusetts gave to Mr. BUTLER, he gave him a term of only 7 months and 16 days.

Mr. SHORTRIDGE. A final observation.

The VICE PRESIDENT. The Senator will address the Chair, and will let him put the inquiry, under the rule, as to whether the Senator yields.

Mr. SHORTRIDGE. Mr. President, we have been engaged in a colloquy here, and we do not each have time to pause and ask permission.

The VICE PRESIDENT. That is necessary under the rule.

Mr. SHORTRIDGE. I respectfully dissent.

The VICE PRESIDENT. Does the Senator from West Virginia yield to the Senator from California?

Mr. NEELY. Yes, sir; if you please, Mr. President. I grant the Senator authority to interrupt me ad libitum, if the Chair will permit.

Mr. SHORTRIDGE. I want to say to the Senator from West Virginia——

The VICE PRESIDENT. Does the Senator from West Virginia yield to the Senator from California?

Mr. NEELY. I will yield for a question, provided the Senator will wait until I answer it before he asks another.

Mr. SHORTRIDGE. Well, proceed. I will not interrupt the Senator.

Mr. NEELY. Mr. President, there have been two interruptions—one by the distinguished Senator from Indiana [Mr. WATSON], who I am afraid has again left the Chamber after having asked his questions and made his observations, and another by the equally distinguished Senator from California [Mr. SHORTRIDGE], both of whom voted to seat Mr. Newberry. Their answers, their observations, and their colloquies with me have all demonstrated that it is harder for a poor man to "get by" the "old guard" on the other side of the Chamber with credentials from a progressive governor than it is for a camel to go through the eye of a needle, or a rich man to enter the kingdom of heaven, and by the same tokens we are forced to conclude that, when a Newberry, who has corrupted the voters of a State and spent $195,000 to purchase a seat in the Senate, arrives, he is welcomed on the other side of the Chamber with open arms and glad acclaims.

Mr. SHORTRIDGE. Mr. President——

The VICE PRESIDENT. Does the Senator from West Virginia yield to the Senator from California?

Mr. NEELY. Gladly.

Mr. SHORTRIDGE. This is what I wish to ask the Senator: I understand that the purpose of the seventeenth amendment was to give the people of the several States an opportunity, and an early opportunity, to elect their own Senators. My question is this: Does not the distinguished Senator now addressing the Senate think that the Governor of the State of North Dakota—who acted in the utmost good faith, I have no doubt—is himself defeating the will of the people and the spirit of the seventeenth amendment by not calling an election in North Dakota and letting the people proceed within 30 or 60 days to elect their Senator? That is what I mean when I say that I think the Senator from West Virginia and the Governor of North Dakota are defeating the spirit of the seventeenth amendment.

Mr. NEELY. Mr. President, the Governor of North Dakota is not defeating the will of the people of his State. He is trying to carry it out, and he will succeed, unless my friends on the other side prevent him from doing so; and if the spirit of the seventeenth amendment is not effectuated in this case, it will be not because of the Governor of North Dakota; it will be because of the votes of Republican Senators.

There is a good reason why the Governor of North Dakota did not call an election immediately. During the present Republican administration the people of North Dakota have become so poor that they can not afford to have a special election to fill a vacancy in the United States Senate. There are thousands of North Dakota citizens who are bankrupt and weary of "keeping cool with Coolidge." There is an election already called, under the law, to be held on the 30th day of next June. That will be the earliest general election in the State of North Dakota, and Governor Sorlie, in order to save the taxpayers of his State the expense of holding a special election to fill this vacancy, the cost of which I have heard estimated as high as $200,000, has appointed Mr. NYE to fill it for the short term of 7 months and 16 days.

In conclusion, if I can not move your sense of fairness, let me appeal to your sense of fear, and warn you that if you outrage the spirit of the Constitution of the United States and the law of the State of North Dakota by ousting Mr. NYE from this Chamber in the circumstances of this case, you will thus do more in an hour to solidify the progressive sentiment of the Northwest against the Republican Party and its reactionary candidates in 1926 and 1928 than you could do in a year in any other way.

If I were thinking only of the political advantages to be gained from this situation, I should, of course, hope that you old-guard Republicans would do just what you have determined to do, and that is to refuse to give Mr. NYE his seat. But I can not condescend to a consideration of political strategy in this case. My duty under my oath of office to support and defend the Constitution—and by that I mean the spirit of the Constitution—and my duty to be a servant of the people of the United States, including the people of North Dakota, instead of a slave of a political party or the rubber stamp of a political machine impel me to vote to seat Mr. NYE.

While I suppose many will scoff at the suggestion that there could be any sentiment in the Senate, I nevertheless am unable to refrain from saying that in addition to the obligations which the spirit of the Constitution and the law, and the facts in the case, impose upon me to vote to seat Mr. NYE I am also conscious of another impulse—which, of course, would not be controlling if I were not convinced that Mr. NYE is entitled to membership in this body—and that impulse is the offspring of my thoughts of a wife and three children of the appointee, who, in one of the plainest homes in the State of North Dakota, are to-day hoping and praying that the husband and the father may for a few short months be permitted to enjoy the cherished distinction of being a Member of the United States Senate. My conscience would not be clear, and I should not sleep well to-night when I think of my own, whom I love much more than my life, if I had failed to cast a vote to enable Mrs. Nye to declare, "My husband is a Member of the highest law-making body in the land," and her little ones to say in the lisping accents of childhood, "Our father has the honor of being a Member of the United States Senate," an honor which is but one step removed from that of the Presidency of the Republic—the most exalted office in all the world.

Mr. WALSH. Mr. President, it was not my purpose to take any part in this debate. I had intended to content myself with voting my convictions, leaving the discussion of the very important questions involved to members of the committee charged with the inquiry in the first instance and to Senators who have listened to the debate and otherwise informed themselves.

I have been persuaded, however, merely to express my views concerning the question by reason of the fact that there have appeared in at least two papers in North Dakota statements, one to the effect that I was to lead the fight in favor of Mr. NYE, the other to the effect that I was to lead the fight against Mr. NYE. I am highly complimented by my friends in North Dakota who seem to think that my views about the matter may be of some consequence to the inquiry.

But I should not like to have those same friends—and I have many in that State—believe that having led some one to the conclusion that I was to take a certain attitude with respect to the matter I had been prevailed upon thereafter to keep still and vote the other way. I shall merely state the course of reasoning by which I have arrived at the conclusion which seems to be irresistible in this matter, and that is that the Governor of North Dakota had no authority under the constitution and statutes of that State to make the appointment.

I regret this conclusion exceedingly. I had the opportunity to converse for a short while one day with Mr. NYE, and I am glad to say he made a very favorable impression upon me, and I have no doubt would make a very excellent representative from that State in this body and an acquisition to it. But, Mr. President, regardless of any technical construction of statutes, if I had any clear idea that the people of North Dakota had consciously invested the governor of that State with the power to appoint in case of this kind, I should not hesitate for a moment to give expression to their desires in the matter, even though the language in which they expressed it were technically inexact.

It is perhaps not known to many here that I had a somewhat leading part in the contest over the seating of Frank P. Glass as a member of this body and of Henry D. Clayton, named originally for the place during the year 1913 and shortly after the seventeenth amendment became effective by ratification of the requisite number of States. I made the report from the committee, and I voiced my views about the matter on the floor of the Senate. I was convinced then that the Governor of Alabama had no power to make the appointment. I have been unable to distinguish the Nye case from that case. A further study of the subject, as is ordinarily the case, has confirmed me in the view that I then formed.

It may not be known to all that the Glass case differed from the present case in the respect that in that case two grounds were advanced in support of the validity of the appointment of Mr. Glass. One made the case identical with the present case, but there was another ground that appealed to many Senators which has no reference whatever to the Nye case.

It was contended by a number of the members of the committee and very stoutly argued upon the floor that the seventeenth amendment to the Constitution had no application whatever to the case of Mr. Glass, because he was appointed to fill a vacancy occasioned by the death of a Senator who had been elected prior to the time the amendment took effect, the argu-

ment being based upon the third paragraph of the seventeenth amendment, which reads as follows:

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as a part of the Constitution.

It was argued, and with no little force, that, so far as a vacancy occasioned by the death of a Senator who had been elected prior to the time the amendment took effect, the vacancy was to be filled, not under the amendment to the Constitution, but as provided by the old Constitution. That view was, as I recall, very forcefully presented by the senior Senator from Arkansas [Mr. ROBINSON]. It must be borne in mind in determining the meaning of the Senate in the close vote on the seating of Mr. Glass that many Senators voted in his favor under the argument so made to which I have adverted.

The other ground upon which the validity of the appointment in that case was made is like unto the ground here, namely, that there was a statute of the State of Alabama, passed in the year 1909, by which the governor of that State was authorized to fill any vacancies that might occur in State offices. The question arose, first, as to whether the statute enacted prior to the time the amendment took effect could be operative at all in the case, and, second, even if it were passed after that time, whether a statute authorizing appointment by the governor to fill vacancies in State offices would be applicable to a vacancy in the office of United States Senator. Upon that question I wrote the report, and expressed my view that a United States Senator was not a State officer and that the statute would not authorize the appointment. As I said, further reflection has convinced me of the soundness of that view.

In the first place, it was attempted to distinguish the Nye case upon the ground that a statute has been passed since the adoption of the seventeenth amendment, namely, in the year 1917, authorizing the legislature to fill a vacancy. But, as has been observed, that statute is simply a reenactment, with a slight change in regard to vacancies in the case of the office of the district or prosecuting attorney, and is a reenactment of a statute which existed for many years, and which was found in a revision of the code in 1913. Upon well-established rules, the statute reenacted must be given just exactly the same construction as was given the statute in its original form, except in respect to the particular in which it varies from the parent statute. So that if the statute in 1913 did not authorize the appointment of a United States Senator without subsequent action by the legislature, the enactment of the statute in 1917 would not be so effective and operative.

Mr. President, it would not make a bit of difference to me how inartfully the people of North Dakota, through their legislature, expressed their desire in the matter if they did consciously delegate this power to the governor. Under the original Constitution, the people, the source of all power, surrendered a portion of that power to the legislature of their States, respectively, and invested them with the power to elect United States Senators; but that system proved entirely unsatisfactory and gave rise, as is well known, to vast corruption and resulted in a very general demand that the people reinvest themselves with the power which they had thus reposed in the legislature in the enactment of the Constitution in the first place. So they did, and not only provided that Senators should be elected in the first instance by a vote of the people, but also provided that in case a vacancy should occur in the office of United States Senator the vacancy should be filled by the people of the State in an election held for that purpose. But then they provided that they might, if they saw fit to do so, invest their governor with the power to make a temporary appointment. It seems to me that that contemplates affirmative action on the part of the people of the State acting through their legislature with full knowledge of their right either to retain that power in their own hands or to give it to the legislature.

Something has been said to the effect that the legislature might not be in session, but it will be borne in mind that we have just exactly the same situation in the House of Representatives when a vacancy occurs there. It remains a vacancy until a special election can be called to fill the vacancy.

That this is the proper view of the constitutional provision I think is abundantly established by reason of the fact that practically every State has adopted such a statute. The statute of the State of North Dakota authorizing the governor to fill all vacancies in State offices, or generally to fill all vacancies, is not exceptional by any means. Nearly every State has exactly the same statute. Thus my State provides, by section 514 of the Revised Code of Montana, 1921, an old statute reenacted, as follows:

When any office becomes vacant and no mode is provided by law for filling such vacancy, the governor must fill such vacancy by granting a commission to expire at the end of the next legislative assembly or at the next election by the people.

But no one in the State of Montana thought that that would authorize the governor to fill a vacancy in the office of United States Senator, and so they provided in an entirely different provision, as follows:

When a vacancy happens in the office of one or more Senators from the State of Montana in the Congress of the United States the governor of this State shall issue under the seal of the State a writ or writs of election to be held at the next succeeding general State election to fill such vacancy or vacancies by a vote of the electors of the State: *Provided, however,* That the governor shall have the power to make temporary appointments to fill such vacancy or vacancies until the electors shall have filled them.

Some time ago upon another matter I had occasion to direct the collection of the statutes of every State in the United States upon the matter of filling vacancies occurring in the office of United States Senator, and, notwithstanding most of them carry this general statute authorizing the governor to fill vacancies, in nearly every case—there are a few States, I think possibly half a dozen at the outside, that have not legislated upon the matter at all—they have gone on and made a specific provision, as is here indicated, for filling vacancies of that character. I should say in this connection that that is apparently the view taken of the matter by the people of North Dakota as well, because my attention is called to a statute enacted as late as 1917 or perhaps a little later known as the "recall" statute, by which it is provided that a State officer, a congressional officer, or a district officer may be removed by the vote of the people of the State. As my recollection is, that was appealed to in order to remove the governor of that State at one time.

Whether the people of North Dakota could remove by operation of the recall a Member of this body or a Member of the other branch of Congress by an adverse vote I need not canvass at this time, but the point I am making is that when they came to pass that section they did not content themselves by saying that a State officer or district officer could be removed by recall, but in order to reach a Member of either House of Congress they provided further that congressional officers could be removed, indicating that in the judgment of the people of North Dakota a Member of either branch of Congress was not a State officer.

Mr. FRAZIER. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from North Dakota?

Mr. WALSH. I yield.

Mr. FRAZIER. I would like to ask the Senator from Montana if the very fact that the 1919 session of the Legislature of North Dakota, which was comprised largely of the same members as the 1917 session, in passing the recall law and referring in that law to congressional officers did not put the meaning of the members of the State legislature there to the effect that the Members of Congress and the Members of the United States Senate were State officers and on a parity with State officers because they included them in the recall?

Mr. WALSH. I should say not. I should say they were not guilty of tautology by saying the same thing twice. If "congressional officers" were included within the designation "State officers," it would not be necessary to say so; it would be sufficient to say "State officers."

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Nebraska?

Mr. WALSH. I yield.

Mr. NORRIS. I am very much interested in the Senator's construction. I have read the statute, and I confess I get just exactly the opposite idea. I assume that the people of North Dakota never contemplated recalling an officer unless he were a State officer. It seems to me that is a fair assumption, for they would not be able to recall any officer who was not a State officer. Assuming that to be true, when they enumerated the list of officers subject to recall and included Members of the House of Representatives and Senators—whether they are State officers or Federal officers is not necessarily, in my judgment, determined by that—it seems to me that the people of North Dakota must have thought that they were State officers. If the Senator will read the statute, he will find that they enumerated all the others; but, if his idea is right, then they would have simply said State officers and said nothing else. Can the Senator for a moment believe that the people of

North Dakota had in mind that they could recall anybody who was not an officer of that State?

Mr. WALSH. I think so, clearly. I think the people of North Dakota felt that inasmuch as they elected congressional officers they could recall congressional officers, and they tried to do so.

Mr. NORRIS. They provided for it; there is no doubt about that.

Mr. WALSH. They put it in the law that they could recall State officers, that they could recall congressional officers, and could recall district officers.

Mr. NORRIS. They mentioned the officers, giving a list. There are quite a number of them.

Mr. WALSH. I have not the statute before me, but speak from recollection.

Mr. NORRIS. I may be wrong about that. It may be that they were enumerated in the way the Senator from Montana has indicated.

Mr. GEORGE. I hand the Senator from Montana a copy of the recall statute.

Mr. WALSH (examining). This is the act submitting the initiative statute to the people of the State, and, as I understand, it was adopted by the people. I will ask the Senator from North Dakota [Mr. FRAZIER] if that is not correct.

Mr. FRAZIER. That is true.

Mr. NORRIS. This is the way the initiative statute reads:

> The qualified electors of the State or of any county or of any congressional, judicial, or legislative district may petition for the recall of any elective, congressional, State, county, judicial, or legislative officer by filing a petition with the officer with whom the petition for nomination for such office in the primary election is filed demanding the recall of such officer.

Mr. SWANSON. Who passes on the petition? Who makes it operative?

Mr. WALSH. I suppose the number of electors who must sign the petition is fixed by the statute, and if the requisite number have signed the petition that an officer be recalled, then an election is held, and the recall depends upon the result of the election.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Virginia?

Mr. WALSH. I yield.

Mr. SWANSON. As I understand, then, the State enacted that law and the State authorities fixed the conditions upon which the recall should be made?

Mr. WALSH. Yes, sir.

Mr. SWANSON. That is, the State of North Dakota determined the conditions upon which recalls should be made?

Mr. WALSH. Yes, sir.

Mr. SWANSON. Does the Senator have an idea that they thought they would have authority to make provision for recalling Federal officers?

Mr. WALSH. I can not think of anything else, because they have so provided. They provided for the recall of some officers other than State officers.

Mr. SWANSON. Would it be a strained construction to infer that in their minds they were State officers and that the State authorities had a right to deal with them?

Mr. WALSH. If they regarded them as State officers, they would not have put in "congressional officers" at all. It would have been sufficient to say "State officers."

Mr. SWANSON. If they thought that congressional officers were State officers and yet "congressional officers" was their legal designation, they might include them.

Mr. NORRIS. If they were not State officers, they were not subject to recall.

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Nebraska?

Mr. WALSH. I yield to the Senator from Nebraska.

Mr. NORRIS. The Senator must admit, then, it seems to me, that the State of North Dakota had no authority to recall anybody who was not a State officer.

Mr. WALSH. That is my belief.

Mr. NORRIS. I agree with the Senator.

Mr. WALSH. If the Senator will pardon me, nevertheless, I believe that the people of North Dakota believed they had the right to recall them.

Mr. NORRIS. Of course, the Senator may be right about that; but I do not believe we ought to charge the people of North Dakota with being ignorant of what their own law provides.

Mr. WALSH. Excuse me; I scarcely think that is correct. Their law does not provide that at all. Their law can not recall a member of this or the other body, because the qualifications of members of either body are fixed by the Constitution of the United States.

Mr. NORRIS. Yes; I understand that; but, nevertheless, the Senator does believe that if they are State officers then they are subject to the laws of North Dakota?

Mr. WALSH. Unquestionably.

Mr. NORRIS. Yes. I can not conceive of the people of North Dakota putting into their law something they must have known was absolutely absurd. If they are Federal officers, and they thought they were Federal officers, they would be very foolish to put in the law a method of recall of such officers.

However, the question I really wanted the Senator to answer was this: It seems to me that the Senator and those who share his view are a little inconsistent to say now, when they are citing the recall statute, it is no good because it enumerates congressional officers, but when they consider the other statute, where the authority to appoint is given, to say that is no good because it does not enumerate congressional officers. It does not seem to me they are quite fair. The people of North Dakota may be entirely wrong and the Senator absolutely right, but at the same time it seems to me one can not get away from the construction that when they passed that law they themselves believed that Senators were State officers.

Mr. WALSH. I think they believed that they would not include Members of either House of Congress if they simply said "State officers," and in order to reach them they said also "congressional officers," under the belief that, having been empowered to elect these officers, they had the power to recall them.

But, Mr. President, I do not desire to enter into a discussion. I rose merely for the purpose of stating my view about the matter.

Mr. SMITH. Mr. President, may I ask the Senator a question?

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from South Carolina?

Mr. WALSH. I yield.

Mr. SMITH. The Senator enumerated those who would be subject to the recall, and, as I heard the Senator read the provision, it referred to district officers. Who comprise district officers, and how are they elected, and to whom are they subject?

Mr. WALSH. There are many such officers. We have special improvement districts of all kinds.

Mr. SMITH. I mean in North Dakota.

Mr. WALSH. I am speaking of North Dakota. They have there special improvement districts; they have drainage districts.

Mr. SMITH. The officers connected with such works are certainly State officers.

Mr. WALSH. Undoubtedly, and they are created by the authority of the State.

Mr. SMITH. Very good. The people of North Dakota differentiated even between State officers. They said, "State officers," "district officers," and "congressional officers," showing that the contention which the Senator from Nebraska made is probably the correct one, in that they differentiated between the terminology by using the words "State officers," "district officers," and so forth. We all agree that a State officer and a district officer, in so far as they are amenable to the State, are identically the same.

Mr. WALSH. Let me say I can not agree with the Senator, because the language is "Congressional, State, county, judicial, or legislative officers." Undoubtedly the words "State officer" are used here as referring to one who is elected by the people of the entire State; a county officer is doubtless one who is elected by the people of a county; and a judicial or legislative officer is one who is elected by a judicial or a legislative district.

Mr. SMITH. Yes. The only point that I wanted to make was this: The argument here has been that a congressional officer, including a Senator, was not in the contemplation of the North Dakota law a State officer. In the statute that has been called to the attention of the Senate they include the district officers by saying, "all State officers." As I recall the statute, it does not differentiate between them. Yet district officers are certainly State officers, and the right is claimed to recall them. A differentiation is made between the kind of State officers by name and congressional officers are put on an equal footing with district and State officers, indicating that they are in the contemplation of the legislature the same. Therefore, in construing the statute which we have invoked referring to vacancies, I maintain that in the contemplation of the legislature they meant to embrace all such officers as are included in the recall statute.

Mr. CARAWAY. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Arkansas?

Mr. WALSH. I yield.

Mr. CARAWAY. May I suggest, for whatever it is worth—the Senator from Montana is probably already familiar with it—that the same legislature that passed this act made provision for the nomination and election of State officers and for Representatives in Congress and United States Senators. They differentiated them in the election law as to the manner in which the names should be placed upon the ticket and how they should be elected. So at one time it seems the Legislature of North Dakota knew that a Senator and a Member of the House of Representatives were not State officers. They provided different means of putting them on the ballot and how they should be nominated, and that was done by the same legislature that enacted the other provision.

Mr. WALSH. That is in the election statute?

Mr. CARAWAY. Yes, sir.

Mr. WALSH. They did not content themselves with providing for State officers.

Mr. CARAWAY. Or county officers.

Mr. WALSH. Or county officers; but they provided for the election of State officers and Members of both Houses of Congress.

Mr. SMITH. I think they differentiated between county and State officers.

Mr. FRAZIER. Mr. President, will the Senator allow me to interrupt him?

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from North Dakota?

Mr. WALSH. I yield.

Mr. FRAZIER. The term "judicial officers" includes the supreme court judges, who in our State are elected at large and are State officers, the same as any other officers elected by the State.

Mr. WALSH. Doubtless the statute overlaps. They doubtless had in mind, however, the district judges.

I merely desire now to advert to the argument based upon the constitutional provision. That is more comprehensive in its character and provides that—

> When any office shall from any cause become vacant and no mode is provided by the constitution or law for filling such vacancy, the governor shall have the power to fill such vacancy by appointment.

That is the constitution of North Dakota as it was adopted away back in the year 1889. They were then providing a constitution for the State of North Dakota, and unquestionably for filling vacancies that should occur in offices created by or under authority of the State of North Dakota.

They were not providing for the filling of vacancies occurring in the legislative body of an entirely different sovereignty, albeit a sovereignty that bears some relation to that of the State of North Dakota.

It will be observed that every argument which applies to the Alabama statute of 1909 will apply equally to this constitutional provision having its origin in the year 1889. There is, however, a further answer to that argument, and that is that this provision of the constitution is the solemn and sovereign act of the people of the State of North Dakota, acting directly in the adoption of their constitution, without any interposition whatever by the Legislature of the State of North Dakota.

The seventeenth amendment, Mr. President, does not provide that the people of North Dakota may invest their governor directly with the power to appoint. It is only the Legislature of the State of North Dakota which, under the seventeenth amendment, is authorized to delegate this power to the governor; and there is a vast difference between the two. Under the old Constitution, it will be borne in mind, Senators were to be elected by the legislatures of the various States; and a man coming here prior to the adoption of the seventeenth amendment with a certificate that he had been elected at a general election by the electors of that State would obviously have no title at all to a seat in this body. So that, Mr. President, a power delegated to the Governor of North Dakota by virtue of the constitution adopted in 1889 can by no stretch of the imagination, as I take it, be considered as in conformity with a power conferred by this amendment of 1913, which invested the legislature with the power thus to delegate the appointing power to the governor of the State.

I want to say this also:

I do not think we get much light upon this question from the adjudications as to whether a particular officer is a State officer or is not a State officer. My esteemed friend the Senator from West Virginia [Mr. NEELY] had some amusement out of the question as to whether or not we are officers at all. He is not the first who met with that kind of a difficulty, because the Supreme Court of the United States in the case of Ex parte Yarbrough, to which I called attention in the report I made in the Glass case, said as follows:

> The day fixed for electing Members of Congress has been established by Congress without regard to the time set for election of State officers in each State.

And then they continue:

> The office [Members of Congress], *if it be properly called an office*, is created by the Constitution and by that alone.

In other words, Mr. President, the Supreme Court of the United States has found difficulty in classifying the place that we occupy as either an office of the State or an office of the United States. But, however that may be, I desire to say that I do not believe that any very satisfactory conclusion can be drawn from the decisions.

In United States against Burton the Supreme Court held that, considering the particular provision of the Constitution under consideration there, a United States Senator was not an officer of the United States. In the case of United States against Lamar, considering a statute of the United States, they held that a Member of Congress was a United States officer within the meaning of that particular statute. In every single case the question is, What did the legislature mean by that particular provision of the statute? A man may be an officer of the United States within the meaning of one statute and not at all be an officer of the United States within the meaning of an entirely different statute. So that those decisions do not help us much one way or the other.

Mr. FRAZIER. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from North Dakota?

Mr. WALSH. I do.

Mr. FRAZIER. I should like to ask the Senator from Montana if the opinions of the Supreme Court to which he refers were unanimous opinions of the Supreme Court?

Mr. WALSH. I do not recall.

For the reasons I have thus stated in brief, Mr. President, I feel impelled, and I say reluctantly impelled, to vote against the seating of Mr. NYE.

Mr. GEORGE. Mr. President, I desire to discuss the case before the Senate, but at no very great length. I do not know what the feeling of the majority is with regard to the hour of adjournment.

Mr. CURTIS. If the Senator can conclude his remarks by 5 o'clock, I should like to have him proceed. If he can not, and wants to make one continuous speech, I should like to get a unanimous-consent order and then have an executive session.

Mr. GEORGE. I should hardly be able to finish by 5 o'clock, though I probably should not take much longer.

Mr. CURTIS. The Senator would prefer to wait until morning?

Mr. GEORGE. Yes.

Mr. CURTIS. Then, Mr. President, I ask unanimous consent that when the Senate concludes its business to-day it take a recess until 12 o'clock to-morrow.

The VICE PRESIDENT. Is there objection? If not, it is so ordered.

EXECUTIVE SESSION

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

RECESS

Mr. CURTIS. I move that the Senate take a recess, the recess being until to-morrow at 12 o'clock.

The motion was agreed to; and (at 4 o'clock and 42 minutes p. m.) the Senate, under the order previously made, took a recess until to-morrow, Saturday, January 9, 1926, at 12 o'clock m.

NOMINATIONS

Executive nominations received by the Senate January 8 (legislative day of January 7), 1926

PUBLIC HEALTH SERVICE

The following-named doctors to be assistant surgeons in the Public Health Service, to take effect from date of oath:

Jesse T. Harper.
Felix R. Brunot.
John W. Harned, jr.

The above-named doctors have passed the examination prescribed by law.

APPOINTMENT IN THE REGULAR ARMY

INFANTRY

William Schuyler Woodruff, late captain of Infantry, to be major of Infantry in the Regular Army, with rank from January 5, 1926.

PROMOTIONS IN THE REGULAR ARMY

TO BE COLONEL

Lieut. Col. Harry Cooper Barnes, Coast Artillery Corps, from January 3, 1926.

TO BE LIEUTENANT COLONELS

Maj. John Carlyle Fairfax, Infantry, from January 3, 1926.
Maj. Allan Francis McLean, Cavalry, from January 4, 1926.

TO BE MAJORS

Capt. Otto Wilhelm Gralund, Finance Department, from January 3, 1926.
Capt. Horace Grattan Foster, Finance Department, from January 4, 1926.

TO BE CAPTAINS

First Lieut. Jess Garnett Boykin, Cavalry, from January 3, 1926.
First Lieut. John Charles Macdonald, Cavalry, from January 4, 1926.

TO BE FIRST LIEUTENANTS

Second Lieut. Hugo Peoples Rush, Air Service, from January 3, 1926.
Second Lieut. John William Wofford, Cavalry, from January 4, 1926.

POSTMASTERS

ALABAMA

Mary J. Anthony to be postmaster at Guin, Ala., in place of M. J. Anthony. Incumbent's commission expired November 15, 1925.

ARIZONA

Ross H. Cunningham to be postmaster at Jerome, Ariz., in place of R. H. Cunningham. Incumbent's commission expired October 11, 1925.

Oregon D. N. Gaddis to be postmaster at Kingman, Ariz., in place of Charles Metcalfe. Incumbent's commission expired June 5, 1924.

Harry M. Wright to be postmaster at Somerton, Ariz., in place of H. M. Wright. Incumbent's commission expired October 11, 1925.

ARKANSAS

Walton J. Rice to be postmaster at Dumas, Ark., in place of P. J. Smith, deceased.

David A. Welsh to be postmaster at Huntington, Ark., in place of W. W. Ferguson. Incumbent's commission expired August 24, 1925.

CALIFORNIA

Ernest W. Dort to be postmaster at San Diego, Calif., in place of E. W. Dort. Incumbent's commission expired November 8, 1925.

COLORADO

Gertrude Powell to be postmaster at Rockvale, Colo., in place of Gertrude Powell. Incumbent's commission expired November 8, 1925.

CONNECTICUT

Phillip V. Schilling to be postmaster at Springdale, Conn., in place of W. A. Pratt, removed.

FLORIDA

George O. Jacobs to be postmaster at Lake City, Fla., in place of D. B. Raulerson, removed.

IDAHO

Harold P. Kahellek to be postmaster at Fernwood, Idaho, in place of J. K. Hood, resigned.

ILLINOIS

George E. Simmons to be postmaster at Avon, Ill., in place of G. E. Simmons. Incumbent's commission expired August 17, 1925.

IOWA

William W. Moore to be postmaster at Ainsworth, Iowa, in place of W. W. Moore. Incumbent's commission expired December 14, 1925.

Milton W. Knapp to be postmaster at Aurora, Iowa, in place of M. W. Knapp. Incumbent's commission expired November 18, 1925.

Wallace R. Ramsay to be postmaster at Belmond, Iowa, in place of W. R. Ramsay. Incumbent's commission expired December 22, 1925.

Miller C. Rhoads to be postmaster at Clarksville, Iowa, in place of M. C. Rhoads. Incumbent's commission expired November 22, 1925.

Harold I. Kelly to be postmaster at Early, Iowa, in place of H. I. Kelly. Incumbent's commission expired October 20, 1925.

Chester B. De Veny to be postmaster at New Hartford, Iowa, in place of C. B. De Veny. Incumbent's commission expired November 18, 1925.

Peter A. Basler to be postmaster at Worthington, Iowa. Office became presidential July 1, 1925.

KANSAS

William T. Flowers to be postmaster at Havensville, Kans., in place of N. O. Richardson. Incumbent's commission expired August 24, 1925.

Gladys D. Corns to be postmaster at Herndon, Kans., in place of G. N. Corns. Incumbent's commission expired October 25, 1925.

KENTUCKY

Harold M. Hardwick to be postmaster at Burnside, Ky., in place of A. F. Lewis, resigned.

Taylor P. Sewell to be postmaster at Campton, Ky., in place of T. P. Sewell. Incumbent's commission expired December 14, 1925.

Houghton T. Gardner to be postmaster at Upton, Ky., in place of R. L. Jenkins, resigned.

MAINE

Charles W. Farrington to be postmaster at Mexico, Me., in place of C. W. Farrington. Incumbent's commission expired November 23, 1925.

William F. Putnam to be postmaster at York Harbor, Me., in place of W. F. Putnam. Incumbent's commission expired November 15, 1925.

MARYLAND

Benjamin F. Woelper, jr., to be postmaster at Baltimore, Md., in place of B. F. Woelper, jr. Incumbent's commission expires January 25, 1926.

MASSACHUSETTS

Roy S. Bailey to be postmaster at Agawam, Mass., in place of C. W. Hastings, resigned.

David N. Wixon to be postmaster at Dennis Port, Mass., in place of D. N. Wixon. Incumbent's commission expired November 15, 1925.

Ursula G. Dehey to be postmaster at Hatfield, Mass., in place of H. L. Howard, resigned.

Charles E. Cook to be postmaster at Uxbridge, Mass., in place of C. E. Cook. Incumbent's commission expired December 22, 1925.

MINNESOTA

Axel P. Lofgren to be postmaster at Karlstad, Minn., in place of A. P. Lofgren. Incumbent's commission expired December 20, 1925.

George W. Fried to be postmaster at Luverne, Minn., in place of G. W. Fried. Incumbent's commission expired November 17, 1925.

Olaf M. Groven to be postmaster at Mentor, Minn., in place of O. M. Groven. Incumbent's commission expired November 23, 1925.

Olive O. Dahl to be postmaster at Pine River, Minn., in place of E. B. Dahl, deceased.

Arthur H. Rowland to be postmaster at Tracy, Minn., in place of A. H. Rowland. Incumbent's commission expired November 23, 1925.

MISSISSIPPI

Bessie M. Nickels to be postmaster at Artesia, Miss., in place of B. M. Nickels. Incumbent's commission expired October 5, 1925.

MISSOURI

Raymond E. Miller to be postmaster at Carl Junction, Mo., in place of R. E. Miller. Incumbent's commission expired November 23, 1925.

Edwin S. Brown to be postmaster at Edina, Mo., in place of E. S. Brown. Incumbent's commission expired December 21, 1925.

Karma K. Black to be postmaster at Fordland, Mo., in place of K. K. Black. Incumbent's commission expired December 21, 1925.

William A. Barris to be postmaster at Marionville, Mo., in place of W. A. Barris. Incumbent's commission expired November 9, 1925.

William F. Crigler to be postmaster at Nevada, Mo., in place of W. F. Crigler. Incumbent's commission expired November 23, 1925.

John F. Hamby to be postmaster at Noel, Mo., in place of J. F. Hamby. Incumbent's commission expired December 21, 1925.

Thomas O. Spillers to be postmaster at Otterville, Mo., in place of T. O. Spillers. Incumbent's commission expired December 21, 1925.

Evelyn S. Culp to be postmaster at Rocky Comfort, Mo., in place of E. S. Culp. Incumbent's commission expired December 19, 1925.

Isaac M. Galbraith to be postmaster at Walker, Mo., in place of I. M. Galbraith. Incumbent's commission expired December 19, 1925.

Edwin McKinley to be postmaster at Wheaton, Mo., in place of Edwin McKinley. Incumbent's commission expired December 22, 1925.

MONTANA

Henry C. Redman to be postmaster at Moore, Mont., in place of Roy Ross. Incumbent's commission expired November 23, 1925.

NEBRASKA

Harry H. Woolard to be postmaster at McCook, Nebr., in place of H. H. Woolard. Incumbent's commission expired October 17, 1925.

W. Monroe McDaniel to be postmaster at Minatare, Nebr., in place of J. W. Gilbert, resigned.

NEW JERSEY

Louis A. Streit to be postmaster at East Orange, N. J., in place of L. A. Streit. Incumbent's commission expired December 21, 1925.

Clarence H. Wilbur to be postmaster at Freehold, N. J., in place of C. H. Wilbur. Incumbent's commission expired May 20, 1925.

William E. Hartman to be postmaster at Grasselli, N. J., in place of W. E. Hartman. Incumbent's commission expired December 22, 1925.

S. Matilda Mount to be postmaster at Jamesburg, N. J., in place of S. M. Mount. Incumbent's commission expired December 21, 1925.

Samuel Locker to be postmaster at Parlin, N. J., in place of Samuel Locker. Incumbent's commission expired December 22, 1925.

Eleanor H. White to be postmaster at Plainsboro, N. J., in place of E. H. White. Office became presidential July 1, 1925.

NEW MEXICO

Ralph Gutierrez to be postmaster at Bernalillo, N. Mex., in place of Philip Jagels, resigned.

NEW YORK

Alfred Valentine to be postmaster at East Williston, N. Y., in place of E. J. Goodale, resigned.

George M. Atwell to be postmaster at Mountain Dale, N. Y., in place of G. M. Atwell. Incumbent's commission expired December 22, 1925.

Edgar M. Schanbacher to be postmaster at Newfane, N. Y., in place of J. W. Shaw, removed.

Frank G. Sherman to be postmaster at Oneonta, N. Y., in place of F. G. Sherman. Incumbent's commission expired December 20, 1925.

George W. Babcock to be postmaster at Ravena, N. Y., in place of G. W. Babcock. Incumbent's commission expired November 17, 1925.

Helen L. Wilcox to be postmaster at Shelter Island Heights, N. Y., in place of I. G. Duvall, resigned.

NORTH CAROLINA

Henry E. Lane to be postmaster at Tyner, N. C., in place of J. L. Baker, removed.

OHIO

Ira A. Danford to be postmaster at Buffalo, Ohio. Office became presidential July 1, 1925.

Effie L. Moore to be postmaster at Cleves, Ohio, in place of E. L. Moore. Incumbent's commission expired November 2, 1925.

John G. Daub to be postmaster at Torenton, Ohio, in place of H. B. Elliott, resigned.

OKLAHOMA

Rosa B. Britton to be postmaster at Cyril, Okla., in place of R. B. Britton. Incumbent's commission expired November 9, 1925.

Alta G. Stockton to be postmaster at Sparks, Okla., in place of A. G. Stockton. Incumbent's commission expired December 22, 1925.

PENNSYLVANIA

Craig M. Fleming to be postmaster at Chambersburg, Pa., in place of D. L. Greenawalt. Incumbent's commission expired October 8, 1925.

Paul A. Hepner to be postmaster at Herndon, Pa., in place of P. A. Hepner. Incumbent's commission expired December 20, 1925.

Anna M. Eisenhower to be postmaster at Intervilla, Pa. Office became presidential July 1, 1925.

Pearson H. Hinterleiter to be postmaster at Topton, Pa., in place of P. H. Hinterleiter. Incumbent's commission expired January 5, 1926.

PORTO RICO

Pedro Muniz Rivera to be postmaster at Manati, P. R., in place of Ramon Collazo. Incumbent's commission expired July 25, 1925.

SOUTH CAROLINA

Bryan A. Odom to be postmaster at McBee, S. C., in place of H. H. Watkins. Incumbent's commission expired October 3, 1925.

SOUTH DAKOTA

Myrtle M. Giles to be postmaster at Lane, S. Dak., in place of G. M. Small, resigned.

TEXAS

Leland S. Howard to be postmaster at Roscoe, Tex., in place of J. S. Sloan. Incumbent's commission expired August 24, 1925.

VERMONT

Lilla S. Hager to be postmaster at Wallingford, Vt., in place of W. F. Hager, deceased.

VIRGINIA

Walter C. Stout to be postmaster at Cumberland, Va., in place of W. C. Stout. Incumbent's commission expired November 23, 1925.

Robert B. Rouzie to be postmaster at Tappahannock, Va., in place of J. L. Henley. Incumbent's commission expired June 4, 1924.

Beronica Marstellar to be postmaster at Virginia Beach, Va., in place of B. G. Porter. Incumbent's commission expired October 20, 1925.

WASHINGTON

Rollie K. Waggoner to be postmaster at Bickleton, Wash., in place of R. K. Waggoner. Incumbent's commission expired January 5, 1926.

Roy H. Clark to be postmaster at Palouse, Wash., in place of R. H. Clark. Incumbent's commission expired October 19, 1925.

William L. Oliver to be postmaster at Rockford, Wash., in place of W. L. Oliver. Incumbent's commission expired November 23, 1925.

James E. Clark to be postmaster at Ryderwood, Wash. Office became presidential January 1, 1925.

WISCONSIN

Andrew Kaltenbach to be postmaster at Potosi, Wis., in place of Andrew Kaltenbach. Incumbent's commission expired December 15, 1925.

WYOMING

Blanche Sutton to be postmaster at Hulett, Wyo., in place of Blanche Sutton. Incumbent's commission expired November 17, 1925.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 8 (legislative day of January 7), 1926

POSTMASTERS

ALABAMA

John G. Sanderson, Courtland.
Robert O. Spiegel, Falkville.
Robert M. Mahler, Loxley.
William A. Dodd, Nauvoo.
Moses B. Rushton, Ramer.
Daisy White, River Falls.

ALASKA

Elbert E. Blackmar, Ketchikan.

FLORIDA

James H. Boyd, Clermont.
William T. Graves, Cottondale.
Gerben M. De Vries, New Port Richey.
Leon E. Mizell, Punta Gorda.

IDAHO

Paul Bulfinch, American Falls.
Willard G. Sweet, Arco.
George Alley, Bancroft.
Clarence M. Oberholtzer, Burley.
Charles B. Mirgon, Cascade.
Dalton C. Rogers, Culdesac.
Walter E. Gorrie, Deary.
Owen D. Wilson, Hansen.
Lillie B. Young, Kuna.
Oren M. Laing, Meridian.
Frederick J. Rodgers, Midvale.
Francis M. Winters, Montpelier.
George S. Mitchell, New Meadows.
Hugh H. Hamilton, New Plymouth.
Ralph M. Castater, Parma.
Lewis N. Balch, Potlatch.
Esmeraldo C. Taylor, Rockland.
Kathryn M. Boss, Rogerson.
Benjamin E. Weeks, Shoshone.
Grace Eubanks, Winchester.

IOWA

Herschel H. Thornton, Adel.
William H. Hall, Allerton.
Frederick W. Werner, Amana.
Wallace R. Ramsay, Belmond.
Ella K. Holt, Blanchard.
James F. Temple, Bode.
Albert H. Dohrmann, Charlotte.
Mary B. Gibson, Emerson.

IOWA

Earl M. Skinner, Farnhamville.
Emil C. Weisbrod, Fenton.
Raymond F. Sargent, Fonda.
William Foerstner, High.
John F. Cagley, Ionia.
Martin A. Sandstrom, Kiron.
Martin A. Aasgaard, Lake Mills.
Charles J. Denick, Miles.
Carl Nielsen, Moorhead.
Chester B. De Veny, New Hartford.
Ulysses G. Hunt, Plymouth.
Iva McCreedy, Riverside.

MARYLAND

Gordon Durst, Barton.
Charles W. Miles, Forest Glen.
Calvin S. Duvall, Gaithersburg.
Joseph S. Haas, Mount Rainier.
Willis B. Burdette, Rockville.
Paul M. Coughlan, Silver Spring.

NORTH CAROLINA

Roscoe C. Tucker, Fairbluff.
Charles C. Hammer, Gibsonville.
Charles B. Moore, King.
Robert B. Dunn, Kinston.
John M. Pully, La Grange.
Henry T. Atkins, Lillington.
William L. Peace, Oxford.
Chester A. Hinton, Pomona.
William R. Anderson, Reidsville.

OKLAHOMA

John Johnstone, Bartlesville.
Curtis Murphy, Foss.
Albert L. Chesnut, Kingston.
William A. Kelley, Marshall.
Wesley Z. Dilbeck, Rocky.
Roscoe F. Harshbarger, Sperry.
Artie Sellars, Texola.
Omer G. Bohannon, Wister.
James S. Shanks, Wynona.

OREGON

Major G. Miller, Dayton.
Ruby O. Engelman, Ione.
John M. Jones, Portland.
Tony D. Smith, Union.

SOUTH CAROLINA

Allie J. Milling, Clinton.
S. T. Waldrop, Greer.
Henry J. Dunahoe, Hemingway.
David N. Baker, Olanta.
Tolbert O. Lybrand, Swansea.

TEXAS

Hugh T. Chastain, Alvarado.
Mamie E. Bonar, Aubrey.
Charles F. Wilson, Celina.
Delmont Greenstreet, Ennis.
Asa McGregor, Milano.
Cora E. Antram, Nocona.
Victoria Robertson, Olden.
Abel J. Durham, jr., Sabinal.
John B. White, Waller.

WASHINGTON

Oscar A. Kramer, Asotin.
Regina E. Blackwood, Bellevue.
Arnold Mohn, Bothell.
Horace S. Thompson, Cle Elum.
Frank A. McGovern, Concrete.
Elijah H. Nash, Friday Harbor.
Addie McClellan, North Bend.
James S. Edwards, Ritzville.
John A. White, Toppenish.
Cyrus F. Morrow, Walla Walla.
Ray Freeland, White Swan.

WISCONSIN

Desire J. Baudhuin, Abrams.
Andrew C. Redeman, Amberg.
Robert A. Elder, Argonne.
Frank J. Duquaine, Crivitz.
Marcus Hopkins, Dale.
David M. Enz, Denmark.
John E. Huff, Florence.
Edward M. Perry, Forestville.
Leland G. Clark, Greenleaf.
Douglas Hodgins, Hortonville.
Hannah Goodyear, Niagara.
Rollyn Saunders, Oconto Falls.
Julia D. Knappmiller, Pound.
Edward E. Pytlak, Pulaski.
Martin J. Jischke, Sister Bay.
Merton J. Dickinson, Tipler.

WYOMING

Edwin M. Bean, Casper.
Willis L. Eaton, Wolf.

HOUSE OF REPRESENTATIVES

FRIDAY, *January 8, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our blessed heavenly Father of light and life and the God of time and eternity, the world is Thine and yet Thou art near. We would wait to hear Thy voice and to feel Thy presence. We thank Thee that we are not the victims of chance and fate, but we live in Thy life and move in Thy strength. With us may the happiness and comfort of all be the object of each. Give us strength and courage to see clearly that right is right and wrong is wrong. Make us duly conscious that "the eyes of the Lord are in every place, beholding the good and the evil." Amen.

The Journal of the proceedings of yesterday was read and approved.

BEFORE AND AFTER THE ELECTION—A MODERN VERSION OF ÆSOP'S FABLE OF THE BAT

Mr. BERGER. Mr. Speaker, I ask unanimous consent to extend in the RECORD one of my speeches that I delivered on the floor of the House during the last Congress. I desire to revise it and send it out by mail.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the RECORD by printing a speech hitherto delivered on the floor of the House. Is there objection?

Mr. CONNALLY of Texas. Mr. Speaker, reserving the right to object, what is it about?

Mr. BERGER. About general conditions.

The SPEAKER. Is there objection?

There was no objection.

(Extension of speech of Hon. VICTOR L. BERGER, of Wisconsin, in the House of Representatives Saturday, January 31, 1925)

Mr. BERGER. Mr. Speaker and gentlemen of the House, Æsop tells a fable of the bat, who in the war between the quadrupeds and the birds posed as a quadruped or as a bird, according to which side was victorious. But the bat was found out and shunned by both sides ever after.

My colleague from Wisconsin, Mr. FREAR, reminded me of that fable and of that bat when he made his speech on last Thursday, January 29.

Mr. FREAR posed as a great La Follette man last summer when the more or less socialistic La Follette campaign loomed up big on the political horizon. Mr. FREAR in his speech also admitted that he sat on the platform at a campaign meeting when the Republican Congressmen were denounced as enemies of the people and voters were advised to vote for the Democrats. He did not protest.

And, lo, a day before yesterday—January 29—Mr. FREAR humbly kissed the flag—no; kissed the elephant's tail [laughter and applause]—and begged for permission to crawl into the hole and to pull the hole in after him. Not in so many words, but that was the gist of the performance. [Laughter.]

WE MUST NOT HAMPER FORCES OF EITHER PROGRESS OR CONSERVATION

Mr. Speaker, it is absolutely necessary that we should have two trends of public opinion in this country, the conservative and the progressive.

This country would soon come to wreck and ruin if we stood absolutely still, if there were no progress. And progress unhampered and unlimited by conservative tendencies would turn everything topsy-turvy. The Russia of the Czar and Russia since is a fair example.

Only we must demand of these forces that their expression be honest. But wherever the struggle between the forces of progress and of conservatism is honest and logical, then just give both of them full play. Do not hamper them. They will work for the best of humanity, of society, of the country.

I say this as an earnest progressive, as a lifelong socialist.

SOCIALISTS WORKED HARD FOR THE LA FOLLETTE-WHEELER TICKET

When the progressive and radical groups got together last summer and nominated or indorsed Robert M. La Follette and BURTON K. WHEELER, the Socialist Party of the United States whole-heartedly joined the movement.

The new progressive alignment had no organization outside of the Socialist Party, the unions, and the railroad brotherhoods. The brotherhoods and the trade-unions, however, are not at all trained or equipped to carry on a political campaign. Therefore the bulk of the work everywhere was really done by the Socialist Party. [Laughter.]

I may also state that every socialist in the country—whether card member or unaffiliated—voted for Robert M. La Follette for President. And every cent the socialists everywhere, including my home State, Wisconsin, and my home city, Milwaukee, could possibly scrape up for campaign purposes was thrown into the La Follette campaign.

I say all this not for the benefit of my progressive friends, who probably know it, but for the information of the Republican and the Democratic Members.

We socialists know that political parties must be based upon economic interests. We have always felt—and I have said so repeatedly in this House—that the Republican and the Democratic Parties do not represent the interests of the working farmers and of the city workingmen, because both old parties are under the domination of the capitalist class.

WHY WE HAVE "BLOCS" IN CONGRESS

Moreover, it has been known for more than a generation that the campaign expenses of both old parties—in National, State, and municipal elections—are paid largely by the capitalist class; and that the capitalists of our country, while as a rule preferring the Republican Party because as a party it is more intelligent [laughter and applause], are just as willing to deal with the Democrats. This was shown during the administration of Grover Cleveland and of Woodrow Wilson, and was shown again by the indorsement of John W. Davis.

There is no difference in principle between the two old parties.

The producers of the country—the people who work with brain and brawn—the workingmen in the cities, and the farmers have no political organization of their own to express their economic interests.

And that is also the reason why we have various "blocs" in our Congress. We have heard of the "farmer bloc," the "railroad bloc," the "soldiers' bloc," and of several other blocs. They were denounced in the newspapers. It is nonsensical, however, to denounce "blocs" in the papers so long as these economic interests have no other way of expressing themselves on the political field.

"BIG INTERESTS" WOULD SAVE MONEY

But while the interests of the workingman and of the farmers are thus not represented at all, it really seems a waste of energy, and also of money, that the capitalist class supports two capitalist parties.

To drive the two parties together into one political body would not only be an advantage to the country at large, but also a financial saving for our "big interests" [laughter], "especially when we consider that the contributions they must give at national elections reach millions of dollars.

ARTHUR BRISBANE'S EXPLANATION

I have seen only one plausible excuse for the existence of two capitalist parties. It was made by Arthur Brisbane when he said:

While the Republican Party is dominated by crooked "big business," the people also know that the Democratic Party is the "spare tire" of crooked big business. That Democratic "spare tire" is carried on the back of the big business band wagon, to be used in case a Republican tire should accidentally blow out.

[Laughter.]

And some voters conclude that they would rather have Republican crookedness with some efficiency than Democratic crookedness without any efficiency.

[Laughter.]

This "explanation" may satisfy some people, but it will not make many contented with the condition.

HOW THE PRESS VIEWS THE TWO OLD PARTIES

In Great Britain, France, Germany, and in every other civilized country the leading parties differ materially in political and economic principles. Not so in our country.

And I consider that a misfortune. Here our capitalist press, after both of the big political parties had made their nominations for President and Vice President, had the following to say:

As between Mr. Davis and President Coolidge, it is hard to discern much difference. Essentially the Democratic and the Republican nominees for the Presidency stand for the same thing. (Chicago Journal of Commerce editorial, July 10, 1924.)

And why should not "big business" have been satisfied with the nomination of Mr. Davis?

According to the pamphlet issued by the La Follette-Wheeler progressive headquarters, and entitled "The Wall Street Twins":

J. W. Davis, Democratic nominee for the Presidency, has been attorney for J. P. Morgan & Co., Erie Railroad, Guaranty Trust Co., Standard Oil Co., New York Telephone Co., Coffee Trust.

At the time of his nomination he was director of National Bank of Commerce, United States Rubber Co., Santa Fe Railroad. (This road obtained an injunction during the recent shopmen's strike and resisted to the bitter end the Baltimore & Ohio settlement.) He appeared as attorney in the Coronado case against the United Mine Workers.

This identity of the two old parties has always been recognized by the socialists of the United States.

LA FOLLETTE'S OPINION OF BOTH REPUBLICAN AND DEMOCRATIC PARTIES

And that is one reason why the socialists so whole-heartedly supported the progressive movement and the nomination of Robert M. La Follette, especially since in his statement and platform, presented on July 4, 1924, to the progressive conference at Cleveland, to which conference I was a delegate, Senator La Follette said the following:

After long experience in public life and painstaking consideration of the present state of public affairs I am convinced that the time has come for a militant political movement, independent of the two old party organizations and responsive to the needs and sentiments of the common people.

The rank and file of the membership of both old parties is progressive. But through a vicious and undemocratic convention system and under the evil influences which have been permitted to thrive at Washington, both party organizations have fallen under the domination and control of corrupt wealth, devoting the powers of government exclusively to selfish special interests.

An analysis of the platforms adopted by the two old parties will show that the real issues have been ignored and that the candidate of either party, if elected, will go into office with no specific pledges whatsoever binding him to the people, while he will be under the most immediate necessity and obligation of serving the party bosses and predatory interests to whom he owes his nomination and upon whom he must rely for election.

From 1912 until the present time no honest or continuous effort has been made by a single administration, either Republican or Democratic, to protect the American people from the exactions of private monopoly by enforcement of the criminal sections of the antitrust laws. These sections should and must be enforced if the power of corrupt business is to be broken.

While the Democratic Party went into office pledged to destroy monopoly by civil and criminal prosecutions, it withdrew or compro-

mised even the pending civil prosecutions against the trusts during the war and left the American people at the mercy of the greatest profiteers in all history. In the last years of the Democratic administration, under the notorious régime of Attorney General Palmer, monopoly was recognized as beyond the reach of the law, while labor unions, farmers' organizations, and individual citizens daring to assert their constitutional rights against this tyrannical power were singled out for attack and destruction.

In 1920 the people expressed their resentment at their betrayal at the hands of the Democratic Party by defeating it with the greatest popular majority ever cast against a political party in the history of this country.

The hypocrisy of the old parties was never more forcibly illustrated than by a comparison of their platform declarations with the actual records of their Representatives in the session of Congress just closed. Professing deep concern for the farmer, reactionary Republicans and Democrats failed to produce a single constructive measure for the relief of agriculture and rejected the only bills which were introduced for this purpose.

Popular government can not long endure in this country without an aggressively progressive party.

I stand for an honest realignment in American politics, confident that the people in November will take such action as will insure the creation of a new party in which all progressives may unite.

If the hour is at hand for the birth of a new political party, the American people next November will register their will and their united purpose by a vote of such magnitude that a new political party will be inevitable.

All this is quoted from the statement and platform of Robert M. La Follette, Independent Progressive candidate for President of the United States, and presented on July 4, 1924, to the Progressive conference at Cleveland, Ohio. It was printed and distributed by the La Follette Progressive headquarters in Chicago and called A New Declaration of Independence. [Laughter.]

LA FOLLETTE CALLED BOTH OLD PARTIES OUR OPPONENTS

I hope that my colleague from Wisconsin [Mr. FREAR], who in his speech delivered on Thursday, January 29, claimed that he had never heard Robert M. La Follette denounce the two old parties as hopeless, will know better now.

But Senator La Follette did not stop there.

Speaking in Madison Square Garden, in New York, September 25, in the opening speech of the campaign, Senator La Follette denounced both "the corrupt and decadent old parties."

He said that it—

has taken years of betrayal and a long line of shameful abuses on the part of the Democratic and Republican Parties to convince the people that they must organize for political action outside both old parties in order to find relief from intolerable political and economic conditions.

He continued:

Millions of men and women of widely different occupations have reached the deliberate conclusion that both Republican and Democratic Parties as now controlled are the servants and representatives not of the people but of the vast aggregations of corporate wealth which dominate both the politics and business of the country.

The policies and the candidates of the Republican and Democratic Parties are as like as two peas in a pod, and for that reason I shall hereafter refer to them in this address as "our opponents."

REPUBLICANS AND DEMOCRATS REPRESENT PRIVATE MONOPOLY

Again:

The best that the Republican Party, for example, can offer with its present candidate is four years more of misgovernment such as we have witnessed during the last four years—the same control by powerful private interests, the same cynical bestowal of special privileges on the favored few, the same shameful betrayals of the public trust.

The policies, appointments, and actions of that administration during its last year, as during its first three, were dictated not by the individuals who happened to occupy the White House but by the forces that control them and dominate the Republican as well as the Democratic Party. The Presidents were merely the servants of the system.

And again:

But I reiterate that the question of personal honesty is entirely aside from the main issue. Vote the Republican ticket and you vote to enthrone the system that controls it for another four years. Vote the Democratic ticket and you vote to enthrone the same system with a different representative in the White House. In either case you vote for four more years of government by the private monopoly system.

REPUBLICAN PARTY VEST-POCKET POSSESSION OF WALL STREET

Mr. BROWNE. Will the gentleman yield?

Mr. BERGER. I will yield to the gentleman after I get through, but I do not want to be interrupted now. I will give the gentleman all the time he wants. He can ask me questions for an hour, if he cares to, either publicly or privately. [Laughter.]

Speaking in Newark, N. J., October 9, Senator La Follette said:

Every thoughtful man and woman has completely lost faith in the Republican and Democratic Parties.

Answering the question as to why there should be a new political alignment instead of a continuation of the fight for reform within both parties, Senator La Follette declared he had fought 30 years within the Republican Party—

to restore it to its original principles—

but he had been unsuccessful, and the party had become—

year by year more and more a private thing, the creature of big business—

and—

to-day it is the vest-pocket possession of Wall Street, a mere chattel, which, in the last analysis, half a dozen men dispose of as they wish.

THE PEOPLE DEMAND A NEW POLITICAL ALIGNMENT

The Democratic Party came off no better. By 1861 it had become, he stated, the—

vest-pocket possession of the slave-owning, plantation-owning aristocracy of the South, and has remained such ever since.

The Democratic Party—

He said—

lost its last vestige of democracy. The Republican Party lost its last semblance of freedom. Both the old parties became private things, palsied agencies of the popular will.

To-day the American people, the millions of American people who generously made their sacrifices in the war, are rising as they did in 1776 to repudiate the two cynical masks behind which monopoly, privilege, and economic power seek to hide themselves. * * * The people demand a new political alignment and new instruments through which they may express their will.

Senator La Follette, speaking in Boston on October 30, said:

The policy of imperialism which is now dominating the American Government is not due to the control of any particular party. It is not a question of politics. Both parties, Democratic and Republican alike, have been used in subverting the Government and turning it away from the traditional policies of genuine Americanism.

Financial imperialism is the natural and inevitable product of the control of government by the private-monopoly system. With the system in power, it has made no difference whether the administration was nominally Republican or nominally Democratic.

COOLIDGE THE PROTECTOR OF FALL, DENBY, AND DAUGHERTY

Speaking in Minneapolis, Minn., on October 16, Senator La Follette said President Coolidge was nominated for Vice President in 1920 at Chicago because of false propaganda "relative to his actions during the Boston police strike." Also that Coolidge, as Presiding Officer of the Senate, always sided with special privilege, and at one time gave the gavel to an old guardsman "when an especially raw job was to be put over."

He accused Coolidge of being the protector of Fall, Denby, and Daugherty and of not lifting a protesting voice "during the orgy of corruption at Washington."

When I presented to the Senate evidence demonstrating that naval oil reserves were being leased in violation of law and in betrayal of the public trust Calvin Coolidge sat, as President of the Senate, 50 feet away. He heard every word.

I could extend these quotations ad infinitum.

However, some of my Progressive friends—now so busy crawling into holes and trying to hang onto the Republican Party—may claim that while Senator La Follette attacked both old parties, and especially the Republican Party, the other "Progressives" are innocent.

Now, I do not know how innocent they all are. Most of the members from Wisconsin made speeches attacking both old parties. So did I.

And they were proud of it at the time. So was I.

But I am still proud of the fact that I was invited to speak in eight different States, and spoke to capacity houses for Robert M. La Follette and the Progressive ticket, while most of the other gentlemen are now crestfallen.

Why?

Because they are afraid of losing their positions on certain committees. [Applause.] Some Members even claim that they "did not know" that the Republican Party has been attacked by the Progressives.

THE TEXTBOOK CALLED "THE FACTS"

But surely these gentlemen have seen the La Follette-Wheeler campaign textbook called "The Facts."

It was the textbook which speakers for the Progressive candidates used, to which they referred in outlining the issues of the campaign. It quotes many of La Follette's speeches. It takes up the promises of the Republican Party and relates its betrayals.

Referring to the Republican platform promise to bring back balance in the condition between agriculture, commerce, and labor, the textbook says:

The Republican Party has been in complete control of every branch of Government during the greatest disaster that has ever fallen on the American agriculture. Its leaders have done nothing except to devise schemes to plunge the farmers deeper in debt.

Coolidge has not lifted a finger to help agriculture, except to encourage a syndicate of Wall Street bankers to take charge of insolvent banks in the West, thus increasing the power of the money power.

Dawes is one of the Morgan banking group that is primarily responsible for the present distress of the farmers.

Referring to the Republican plank for higher and better labor standards, the textbook declares:

The hypocritical "labor plank" in the Republican platform will not deceive any American workingman.

The workers will not forget Coolidge, the strike breaker; Daugherty, the labor baiter; and Dawes, the outspoken foe of organized labor.

"THE WALL STREET TWINS"

Here also is a pamphlet published by the La Follette-Wheeler Progressive headquarters and distributed in about a million copies. It is called "The Wall Street Twins," and has a wonderful cartoon on its title page, showing Morgan's hands balancing both Coolidge and Davis while Morgan is pulling the strings.

We are told "Why does Wall Street regard Coolidge as safe?"

This is why:

Because in his brief term he has done these things—

He vetoed the soldiers' bonus and the old soldiers' pension bill.

He vetoed a bill increasing the wages of postal employees.

He upheld the Esch-Cummins law.

He shielded Daugherty and the oil grafters.

He supported the Mellon tax bill, which attempted to shift taxes from "big business" to the people.

He reappointed Mellon as Secretary of the Treasury. Mellon is one of the richest men in America. Mellon is or was at one time connected with the Pennsylvania Railroad Co., the Aluminum Co. of America, the Gulf Oil Co., and about 60 other large corporations. Among these Mellon controls a large number of banks.

NOW LOOK AT THE RECORD OF DAWES, HIS RUNNING MATE

Mr. Dawes is the handy man of the international bankers of Wall Street. He is the man they sent to Europe. Morgan is kept in the background as the advisory man.

He is chairman of the board of directors of the Central Trust Co. of Illinois and connected with other large corporations.

He is for the open shop.

He has attacked the Sherman antitrust law.

He has viciously attacked Congress, when the latter was investigating his activities as purchasing agent for the American Army in France.

He has upheld the issuance of injunctions against labor.

He helped make it possible for Mr. Lorimer to defraud thousands of people.

ARE COOLIDGE AND DAWES BETTER TO-DAY THAN IN 1924?

Now, I will ask my progressive friends from Wisconsin whether they still hold the same opinion of Coolidge and Dawes that they proclaimed up to November 4, 1924?

And if they do—what business have they in the Republican Party? [Applause.]

The Republicans elected Mr. Coolidge and Mr. Dawes with the unprecedented majority of 7,000,000 votes over their Democratic opponents; and with a majority of about 11,000,000 votes over La Follette and WHEELER.

And has anything happened since November 4, last year, to make my colleagues change their opinion about Coolidge and Dawes?

And what is it that has happened?

Are Coolidge and Dawes more radical to-day than they were on November 4, 1924? Do they support any of the measures advocated by the Progressives in the Cleveland platform?

Are Coolidge and Dawes less under Wall Street domination than they were last summer and up to November 4, 1924, according to my "Progress-if" friends?

THE "PROGRESSIVES" IN THE RÔLE OF "MAGDALEN"

That story of Magdalen is a beautiful story—I agree with the gentleman from Indiana [Mr. WOOD].

But the rôle of a Magdalen fits badly a champion of progress—a fighter for a new idea. Now, I do not want to throw any stones, but we have a plain English word for that kind of girl.

WE DO NOT WANT TO KIDNAP THEM

Now, do not misunderstand me, gentlemen. I do not say all this because I want to take away these warriors from the Republican Party—or from the Democratic Party, for that matter—and add them to the socialist hosts. Not at all.

After the experiences we had with some of these gentlemen this year we will have to look them over individually and examine them closely before we would admit them to membership in the Socialist Party [laughter]—even if they should apply, which I do not believe they will—because there are no flesh pots in the socialist political desert. [Laughter.]

I am not a Republican nor a Democrat. I have never belonged to either of the two old political parties. I have always been a political protestant and a member of the Socialist Party ever since there was one.

SOCIALISTS ALWAYS PAID THE PRICE OF PIONEERING

And we Socialists have never sailed under false colors. Everyone always knew where we stood politically. I have also paid the price in full of pioneering for a new idea.

Any man who claims to be a Progressive, who claims to stand for reforms and progress, ought to be willing to pay the price. If not, then he is a weakling.

Especially in this case the price these gentlemen are asked to pay is so insignificant as to be almost ridiculous—the loss of position on committees.

THE REPUBLICAN PARTY HAS A RIGHT TO OWN ITS OWN ORGANIZATION

The Republicans have a right to control their own organization. The Republicans have a right to decide who is to represent their views on committees.

Now, let me ask my Progressive friends in all candor: What would have happened to the gentleman from Ohio [Mr. LONGWORTH], or to the gentleman from New York [Mr. SNELL], or to the gentleman from Indiana [Mr. WOOD], if Robert M. La Follette had been elected President and the Progressives would have had control of the House?

Would the Progressive Party have taken the gentlemen I have named to its political bosom, put them on important committees, and told them they were good boys and all was forgiven?

PROGRESSIVES AND SOCIALISTS PREACHED THE SAME REBELLION

The excerpts you have heard could be multiplied a hundredfold. They plainly prove that these gentlemen are no more Republicans than I am.

As a matter of fact, we stood on the same platform at the last national election. We preached the same rebellion in the last national campaign.

Only with this difference: I still stand where I stood last summer. If I ever would change my political faith, I would do it without "ifs" and "ands."

I do not intend to sneak into the Republican Party. I ask no favors from the Republican Party. [Applause.]

I am satisfied with the recognition to which I am entitled as a spokesman of a party and of a movement that polled 5,000,000 votes last November. [Applause.]

SHOULD REMEMBER WHAT FARMERS DO TO BATS

However, much more important is the fact that the common people, the workers, the farmers, the small business men, can expect no relief whatsoever as long as the progressive movement is the tail end of either of the two capitalistic parties and receives, in the last analysis, its inspiration and dictation from "big business."

Notwithstanding my sympathy with some of the efforts of my progressive friends, I am free to say that their position always was inconsistent—and that it always was politically dishonest.

They were sailing under a false flag and were using false labels. And they need not be surprised if they lose the confidence and the respect of the voters of both sides—of the conservatives and of the progressives.

These gentlemen should remember Æsop's fable of the bat. Especially my colleague from Wisconsin [Mr. FREAR] ought also to remember what the farmers of his district do to the bat. They used to nail bats to the barn door. [Applause.]

I thank you one and all. [Applause.] I still have two minutes, I believe, and will be glad to answer any questions.

"BIG BAD BILL IS SWEET WILLIAM NOW"

Mr. UNDERHILL. Will the gentleman from Wisconsin yield to me?

Mr. BERGER. Yes; for a question.

Mr. UNDERHILL. We might sum up the whole speech of the gentleman in the refrain of the popular song of the day, "Big Bad Bill is Sweet William Now."

Mr. BERGER. Well, there never was any question about that. [Laughter.]

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 927. An act to extend the time for the construction of bridges over the Mississippi and Ohio Rivers at or near Cairo, Ill.;

S. 1779. An act granting the consent of Congress to the States of Oregon and Idaho to construct, maintain, and operate a bridge and approaches across the Snake River at a point known as Ballards Landing;

S. 1807. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of McHenry, State of Illinois, in section 26, township 45 north, range 8 east of the third principal meridian;

S. 1808. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of McHenry, State of Illinois, in section 18, township 43 north, range 9 east of the third principal meridian;

S. 1810. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of La Salle, State of Illinois, in section 1, township 33 north, range 3 east of the third principal meridian; and

S. 1811. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of Kendall, State of Illinois, in section 32, township 37 north, range 7 east of the third principal meridian.

SENATE BILLS REFERRED

Bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 927. An act to extend the time for the construction of bridges over the Mississippi and Ohio Rivers at or near Cairo, Ill.; to the Committee on Interstate and Foreign Commerce.

S. 1779. An act granting the consent of Congress to the States of Oregon and Idaho to construct, maintain, and operate a bridge and approaches across the Snake River at a point known as Ballards Landing; to the Committee on Interstate and Foreign Commerce.

S. 1807. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of McHenry, State of Illinois, in section 26, township 45 north, range 8 east of the third principal meridian; to the Committee on Interstate and Foreign Commerce.

S. 1808. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of McHenry, State of Illinois, in section 18, township 43 north, range 9 east of the third principal meridian; to the Committee on Interstate and Foreign Commerce.

S. 1810. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of La Salle, State of Illinois, in section 1, township 33 north, range 3 east of the third principal meridian; to the Committee on Interstate and Foreign Commerce.

S. 1811. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of Kendall, State of Illinois, in section 32, township 37 north, range 7 east of the third principal meridian; to the Committee on Interstate and Foreign Commerce.

MINING LAWS OF ALASKA—REFERENCE OF A BILL

The SPEAKER. The bill (H. R. 6572) to modify and to amend the mining laws and their application to the Territory of Alaska was referred to the Committee on the Territories. While the Chair thinks that that reference was proper, it may be more appropriate that it should go to the Committee on Mines and Mining, and, without objection, that reference will be made.

Mr. OLDFIELD. Mr. Speaker, who introduced the bill?

The SPEAKER. The bill was introduced by the Delegate from Alaska [Mr. SUTHERLAND].

Mr. OLDFIELD. And the Speaker thinks it could properly be referred to the Committee on the Territories or to the other committee?

The SPEAKER. The Chair thinks it could be properly referred to either committee, but, as the Chair understands, the respective chairmen of these committees have agreed that it would more appropriately go to the Committee on Mines and Mining.

Mr. OLDFIELD. Has the Delegate from Alaska any preference in respect to the matter?

The SPEAKER. The Chair understands that he has made that request.

Mr. OLDFIELD. I have no objection.

Mr. TILSON. Does the gentleman from California [Mr. CURRY] concede jurisdiction to the Committee on Mines and Mining?

The SPEAKER. The Chair so understands. Is there objection to the rereference?

There was no objection.

INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. CRAMTON. Mr. Speaker, I move that the House resolve itself into the Committee on the Whole House on the state of the Union for the further consideration of the bill (H. R. 6707) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1927, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the Interior Department appropriation bill, with Mr. BURTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. The Chair understands that 95 minutes have been agreed upon as the time remaining for general debate.

Mr. CRAMTON. Of which the gentleman from South Dakota [Mr. WILLIAMSON] has 15 minutes.

The CHAIRMAN. The gentleman from South Dakota [Mr. WILLIAMSON] is recognized for 15 minutes.

Mr. WILLIAMSON. Mr. Chairman, my time is too limited to deal with reclamation at length, as I had originally intended, nor is there great need as the addresses of my colleagues [Messrs. SIMMONS, LEAVITT, SUMMERS of Washington, and WINTERS] upon the subject have been both illuminating and exhaustive. Certainly they lacked nothing in frankness, and if anyone has solaced himself with the thought that our whole reclamation policy could be scuttled without a trace, he has been disillusioned. Reclamation became a part of our fixed policy of conservation more than a quarter of a century ago and is going to persist despite all discouragement and every setback. Settlers have gone upon our reclamation projects in the best of faith. Many of them have given the best part of their lives to the development of their farms and have every dollar they possess invested in them. The old-timers have survived every hardship, endured every privation, and toiled early and late to save their homes. They did not escape the terrible calamity that befell agriculture following the war. They took the full blow of deflation. Adverse weather conditions and worse markets have left many of them bankrupt and all of them in hard straits financially. That is particularly true of the projects that must depend for their success upon the production of corn, wheat, alfalfa, and stock. Their merchants are hard pressed, their banks are broke, and their credit is gone.

It is an astounding thing that in the midst of these misfortunes the Government and Congress should add to their already distressing situation. The denial of appropriations for the proper conduct of the projects is to work their utter ruin. All that has been gained by 25 years of struggle will be lost. Not only will the policy foreshadowed by this bill work irreparable injury to the settlers, but it will destroy all possibility of the Government ever getting back any considerable part of its investment.

Every last farthing is demanded back from the reclamation farmers, no matter how much suffering or hardship it may impose, and yet this very body only last session practically proposed to give away Muscle Shoals for a mess of pottage. If the $150,000,000 invested in the reclamation projects must be collected at any cost and privation to the irrigation farmer, why not be consistent and insist that every dollar of the

$150,000,000 sunk in Muscle Shoals also be returned? If we can afford to sacrifice most of the investment at Muscle Shoals for the proposed manufacture of fertilizer, why should we not be willing to carry the reclamation projects that find themselves embarrassed until such time as they can be rehabilitated? The Reclamation Service says they can be rehabilitated if we will only give it necessary legislation. Common sense would indicate that suitable legislation should be forthcoming. In the meantime, the projects should be kept as going institutions.

In the brief time allotted to me I must of necessity devote most of my time to the Belle Fourche project located wholly within my own district.

This project was authorized on May 10, 1904, and is one of the oldest in the country. The first public notice was posted in June, 1907. This notice advised the settlers that the land would cost them $30 per acre. Water charges were fixed at 40 cents per acre. Public meetings were held, addressed by officials of the Reclamation Bureau, in which prospective settlers were assured that the above prices represented the maximum they would have to pay. Contracts were signed up on that basis, and the farmers went to work, and in the course of a few years made the valley look like a Garden of Eden. But what happened? Faulty construction, poor engineering, and no provision for drainage soon resulted in much added expense. The assessments against the irrigable lands steadily crept up. Operation and maintenance continued to mount until it reached $2 per acre. Seepage destroyed the usefulness of thousands of acres of the most valuable lands and the destruction is continuing to go forward with increasing momentum without let or hindrance from the Reclamation Service, notwithstanding that $100,000 has been available for drainage for a considerable time. This is one of the things that has helped put some of the best farmers on the toboggan.

Turning to page 709 of the hearings, I find that under the head of voucher transactions $4,744,710.22 has been expended by the Government on the Belle Fourche project. The total collections have been $1,096,289.80, leaving the net investment of the Government on June 30, 1925, as $3,648,420.42.

The total irrigable area is about 92,000 acres, of which 81,870 can be served by existing canals and structures. The extensiveness of this great project can be better understood when it is remembered that it has in service 615 miles of canals and laterals, which, under existing contracts, are operated and maintained by the Government. It also has 4,000 miscellaneous structures and permanent buildings. All of these canals and structures would soon become a mass of ruins if the project were to be discontinued as a going institution. The soil is fertile and produces abundant crops where properly managed and tilled. There are now 4,370 people living upon the project, of which 2,020 live upon the farms and 2,350 in the towns.

For the information of the House, I shall append to my remarks the table found at the top of page 709 of the hearings.

From its inception up to and including 1922 the Reclamation Bureau dealt directly with the individual settler and collected dues and charges from him. For some years prior to 1922, however, the bureau had insisted that the settlers should organize themselves into an irrigation district. The primary purpose of this was to get the district to make its own assessments upon the water users and to assume all responsibility for payments due the Government. This would automatically discharge the lien of the Government upon the individual tracts and make it impossible under existing law to get possession of individual tracts by foreclosure or otherwise, no matter how much delinquency there might be.

Through pressure brought by Mr. Davis, the Director of the Bureau of Reclamation, an irrigation district was finally formed and a contract entered into between the Secretary of the Interior and the district on November 26, 1923.

Under this contract all delinquent construction and operation and maintenance charges for 1920, 1921, and 1922 were consolidated and added as supplemental construction charges, and made payable at the rate of $3.15 per irrigable acre after the expiration of the 20-year period of repayment of the original construction charges. One-half of the construction charges for 1923, 1924, 1925, and 1926 were also consolidated and added to supplemental construction charges, payable by installments after the 20-year repayment period expired for each tract affected.

The contract further provided that—

> As to the irrigation seasons of 1923 and 1924, the Secretary shall, on or before May 15, 1923, make and deliver to the district a single estimate of the cost of operating and maintaining the project for both the season of 1923 and the season of 1924, which estimate shall include an adjustment of any surplus or deficit created in the cost of operation and maintenance for the irrigation season of 1922, as heretofore fixed by public notice. The district shall make its levy in 1923, to cover the total amount of said estimate for the two seasons, and such total amount shall be due and payable from the district to the United States on December 31, 1923.

The district found itself unable to meet the construction and operation and maintenance charges for the two seasons of 1922 and 1923 on December 31, 1923, as provided for in the contract, and sought relief under the Phipps Act of May 9, 1924, which provided among other things:

> That where an individual water user or individual applicant for a water right under a Federal irrigation project constructed or being constructed under the act of June 17, 1902 (32 Stat. L. p. 388), or any act amendatory thereof or supplementary thereto, makes application prior to January 1, 1925, alleging that he will be unable to make the payments as required in section 1 hereof, the Secretary of the Interior is hereby authorized in his discretion, prior to March 1, 1925, to add such accrued and unpaid charges to the construction charge of the land of such water user or applicant, and to distribute such accumulated charges equally over each of the subsequent years, beginning with the year 1925, or, in the discretion of the Secretary, distribute a total of one-fourth over the first half of the remaining years of the 20-year period beginning with the year 1925 and three-fourths over the second half of such period, so as to complete the payment during the remaining years of the 20-year period of payment of the original construction charge.

Upon application made an extension of time was granted by the Secretary of the Interior for the payment of the 1923 charges that fell due on December 31, 1923, by the terms of which one half of such charges were made payable in 1926 and the other half in 1927. From this it follows that the only past due and delinquent payment on the Belle Fourche project is for the year 1924, as the 1925 charges do not become delinquent as taxes until May 1, 1926.

Yet, in the face of only one year's real delinquency under the law, the subcommittee has taken it upon itself to deny the Belle Fourche irrigation district an appropriation for operation and maintenance for 1926 and by a purely legislative provision has undertaken to liquidate the entire project by providing—

> That the Secretary of the Interior is authorized to appraise the buildings, machinery, equipment, and all other property of whatsoever nature or kind appertaining to the Belle Fourche project and to lease or to sell the same at public or private sale on such terms and in such manner as he may deem for the best interests of the Government, reserving the right to reject any and all bids.

It is perfectly patent that the subcommittee went beyond its authority in inserting this provision. It is clearly legislative and a matter over which the Committee on Irrigation of Arid Lands has sole jurisdiction. It is not the first time that my district has been made the victim of this sort of provision. The methods pursued by the Appropriations Committee in this regard have been a source of constant irritation to the House and are grossly unfair to the Member whose district is involved, as he is never given notice of the proposed denial of an appropriation that will destroy an activity in his district expressly authorized and established by law. This is particularly true in a case of this character, where proper estimates had been submitted to Congress by the President through the Bureau of the Budget. The Budget estimate for the Belle Fourche project for the fiscal year 1927 was $65,000 for operation and maintenance and a reappropriation of an unexpended balance of $100,000 allotted for drainage so as to make it available for 1926.

Here we have one of the big irrigation projects of the country, created and existing by express authority of Congress, put completely out of business by a refusal to appropriate the necessary funds to keep it in operation. The project has no value except as a going institution. The liquidation attempted in this bill would completely destroy it as an asset to the Government. I am absolutely confident that no bidders for the property could be secured, and the only result would be to permit it to go into decay and ruin. I can not believe that this or any other Congress would seriously consider such a proposal.

Not only would such a policy prove disastrous to the Government's investment in the project but it would be a violation of the contract of the Government with the settlers who are paid up. Not all are delinquent. Those who are not are entitled to water as a matter of both law and equity, yet water is to be denied them because, forsooth, some of their neighbors have failed to pay. The drastic action proposed

would bring to them irretrievable ruin and ought not to be contemplated by a just and generous Government.

One of the real difficulties out there is that some of those who can buy are afraid to do so lest in the end they should lose all by just such action as is proposed in this bill. With the depletion of resident farm owners and the increased burden upon those who remain, it is realized that unless the project can be rebuilt by a new settlement so as to increase the number of those who will aid in making payment, or unless a very large reduction is made in the liabilities of the district, they, in the end, must succumb to intolerable overhead. The load is already heavier than the settlers can bear. In place of 80,000 acres being under cultivation, only 48,000 are tilled, and most of this by tenants who are not making the best use of the land.

Provision should be made by appropriate legislation giving the Secretary of the Interior authority to acquire title to abandoned lands and an ample appropriation made so as to enable him to carry out such authority as speedily as possible. Once lands are acquired an organized campaign should be instituted to secure the right kind of settlers, the kind that will stick and make good. The railways deriving traffic from the project and commercial and other bodies have promised to help. Pending such resettlement payment on construction should be suspended or the district should be permitted to come under the provisions of subsection F of section 4 of the act of December 5, 1924, commonly known as the fact finding act. Water should be delivered to the settlers on a rental basis until such time as a complete readjustment can be made.

Every commission and committee that has been assigned to make a study of project conditions has found that the overhead on our project has become too heavy; that the Government should charge off a considerable part of the original cost and so rearrange payments that settlers will have a reasonable chance to work out and pay up.

If this were done it would infuse a new life and spirit into the settlers upon the project. With the possibility of paying out becoming apparent, hope would return. Farmers would not only vie with each other in an effort to produce the best crops but would take pride in keeping up their payments and making of their project one of the best in the country.

All the sensible farmer wants is a fair chance. Give him this and he will do his best. There are few failures when that kind of spirit prevails. [Applause.]

Operation and settlement data, Belle Fourche project

Item	1920	1921	1922	1923	1924
Acreage for which bureau is prepared to supply water	82,430	83,328	82,190	81,900	81,870
Acreage irrigated	59,850	55,100	31,150	30,550	48,400
Miles of canal operated	615	615	615	506	455
Water diverted (acre-feet) from Belle Fourche River	101,113	86,791	115,629	99,176	101,915
Water delivered to farms (acre-feet)	36,616	71,715	28,421	22,290	57,923
Per acre of land irrigated (acre-feet)	0.61	1.3	1.09	0.73	1.20
Total number of farms on project	1,292	1,292	1,292	1,292	1,183
Population	2,700	2,700	2,700	2,500	2,020
Number of irrigated farms	1,024	1,033	[1] 1,035	[2] 1,035	[3] 854
Operated by owners or managers	692	451	833	772	272
Operated by tenants	332	582	116	188	485
Population	2,650	2,510	2,213	2,035	2,020
Number of towns	5	5	5	5	5
Population	2,350	2,386	2,386	2,350	2,350
Total population in towns and on farms	5,050	5,086	5,086	4,850	4,370
Number of public schools	26	24	24	25	27
Number of churches	9	9	9	9	9
Number of banks	9	9	9	6	4
Total capital stock	$250,000	$250,000	$250,000	$150,000	$135,000
Amount of deposits	$2,657,621	$2,373,380	$2,606,200	$2,145,000	$2,125,000
Number of depositors	6,560	----------	6,500	[4] 5,000	6,000

[1] 86 farms not operated.
[2] 75 farms not operated.
[3] 97 farms not operated.
[4] Estimated.

Mr. CRAMTON. Mr. Chairman and gentlemen of the committee, there is so much that not only I would like to say to the committee concerning this bill, but so much that probably I ought to say, to meet the desires of Members, that I hope I may be permitted to proceed without interruption—certainly no more than is absolutely necessary—in order that I may not be diverted and prevented from presenting the matters I desire to present at this time. At the conclusion of my remarks I shall be very glad to answer any questions that the time may then permit.

The bill before us for the Interior Department covers all of the activities of that department. For the current year the appropriations were $234,174,146. The estimates were $227,083,702 for 1927.

The recommendation in the committee report is $226,473,638, or $7,700,000 below the current year, and $610,000 below the Budget figures. The chief difference between the bill and the law for the current year is a matter of some $5,000,000, due to a reduction in the amount for payment of pensions in consequence of the decrease of our obligations upon the pension roll.

There is no department where there has been a greater effort to bring about real economy in administration than in this department.

GENERAL LAND OFFICE

A notable bureau in that respect is the General Land Office. I simply call your attention to the fact that the General Land Office appropriations for the fiscal year 1925 were $3,200,600, for 1926 they were $2,633,590, and the bill now pending before the committee provides for $2,232,300, or a reduction of something like $870,000 below two years ago. That is in part because of reforms which were agitated in the House and finally approved by the department, and in part by a rigorous program of economy that has been carried on by the Secretary of the Interior and the Commissioner of the General Land Office.

NATIONAL PARK SERVICE

The National Park Service is another of the bureaus in the Interior Department that is of special interest in regard to its accomplishments. In 1916 it was created; at that time there were 16 parks; now there are 19. Then there were 21 national monuments; now there are 32. Then the number of visitors to the parks and national monuments was 358,006, while in the past year there were 2,108,084. The number of automobiles entering the national parks in 1916 was 14,976; in 1925 the number was 368,212. That increased attendance has been accompanied by a great necessity for the accommodation of visitors. It has likewise been accompanied by a program of furnishing necessary accommodations which has proved satisfactory to all classes of visitors, both for those who desire to live in de luxe quarters, as in a large city, and those who wish to live in a rough fashion and in an economical way. They are all provided for. There is no branch of the Government service which has received more of an unanimous approval by Members of this House as to its efficiency in administration than the national parks under the direction of Mr. Stephen T. Mather, who has been director since organization of the National Park Service, and whose own zeal and public spirit has infused a similar attitude through the morale of the entire service. As he encounters the opposition of hostile selfish interests in the working out of his farseeing program in the public interest of centuries to come, he must at times feel discouragement, but it is his energy, patriotic devotion, and ceaseless planning that is laying the foundations broad and firm, for the world's first great system of public parks, to stand forever as playgrounds for the people. The past year there has been attempts to attack his administration, particularly in two of the parks, Grand Canyon and Yellowstone. How absolutely without foundation was that attack is demonstrated in the hearings of our committee in connection with the estimates for the Grand Canyon. I commend that portion of our hearings to the reading of any member of the committee who is interested in the development and preservation of these great popular playgrounds.

DEVELOPMENT OF PUBLIC UTILITIES IN NATIONAL PARKS

Prior to the creation of the National Park Service in 1916 the individual national parks were managed in the Secretary's office in common with a multitude of miscellaneous reservations, eleemosynary institutions, and so forth. Each park was administered with no definite regard to other members of the system; each was established by organic laws or proclamations that differed widely in their provisions and in the application of authority contained in them to problems of administration. There was scarcely an opportunity to harmonize any of the many conflicting principles, and as the supervisory officers in Washington could only give the parks and monuments incidental attention a correlation of methods of management was impossible. The operation of the whole park system was unbusinesslike and unsatisfactory.

In many of the parks small concessions or permits had been granted to numbers of companies and individuals engaged in furnishing horse-drawn transportation service, hotel and camp accommodations, photographic supplies, and so forth. Indifferent service was rendered to the public. It was realized then that if the national parks were to serve adequately all of the people that might desire to visit them well-financed

companies would have to take over the furnishing of public utilities in these parks.

One of the first accomplishments of the new National Park Service under Mr. Mather was the reorganization of the concession system in the various parks. At the beginning of 1916 there was approximately $8,450,000 of private capital invested in park enterprises devoted to the serving of visitors. The resort hotel and transportation business was considered at best a precarious one, and it was difficult to interest sufficient capital to undertake the development of adequate tourist facilities. With the installation of proper business methods in managing the parks capital has been attracted and tourist facilities have been tremendously improved, so that now there are modern hotels, the latest improved types of permanent camp accommodations, housekeeping camps, cafeteria service, modern motorized stage lines, adequate saddle-horse accommodations, and in fact all modern and up-to-date conveniences for the public. These are operated under strict supervision of the Government as to character of service and prices to be charged.

Following is a statement of the fixed assets of park public utilities for 1915 and 1924:

Public utilities in national parks, capital or fixed assets, depreciated values

	1915	1924
Crater Lake National Park	$46,041.00	$126,000.00
General Grant National Park		11,343.00
Glacier National Park	1,955,715.15	2,405,902.05
Grand Canyon National Park	600,000.00	1,000,000.00
Hawaii National Park	200,000.00	300,000.00
Hot Springs National Park	2,000,000.00	3,500,000.00
Mesa Verde National Park	2,500.00	22,849.29
Mount McKinley National Park		9,739.23
Mount Rainier National Park	59,996.95	716,428.89
Rocky Mountain National Park		500,000.00
Sequoia National Park	21,270.00	143,253.19
Yellowstone National Park	3,427,689.97	5,300,000.00
Yosemite National Park	134,136.46	2,100,000.00
Zion National Park		79,737.71
Totals	8,447,349.53	16,215,253.46

Prior to 1916 there were practically no prepared public camp grounds in the national parks.

In 1916 four sanitary automobile camps were established at the principal points of tourist congestion in Yellowstone National Park and a camp was established in Yosemite Valley.

With this beginning the present public camp-ground system of the National Park Service was established. At the present time in practically all of the major national parks there are large camps with electric lights, sanitary conveniences, running water, wood for camp fires, and other conveniences.

During 1925 the gift of 16 acres of land for public camp-ground purposes in Hot Springs National Park was accepted, and this site developed by the installation of sanitary and other conveniences.

In the Yellowstone the highest point of efficiency has been reached in enlarging and improving the public camp grounds to meet modern conditions. The camps at the main points of travel have been fully developed and other camps established at outlying points.

In Sequoia National Park there are at present nearly 400 individual prepared camp sites in Giant Forest, with several hundred more sites at outlying stations, with partial water and sanitation provided. During the past season the public camp grounds at Giant Forest were improved by the installation of a $40,000 sewer system.

In Yosemite National Park a large number of camp sites have been laid out of the floor of the valley, and these have been supplied with all modern camping facilities.

Water and sanitation systems have recently been installed in General Grant National Park to serve the public camp grounds, and additional camp sites have been opened up to care for the constantly increasing number of campers.

At Mount Rainier National Park there are two camp grounds with all sanitary conveniences at Longmire and Paradise Valley. In addition there are several partially developed camps and unimproved camp sites throughout the park. The Longmire camp grounds was in existence in 1918, when it was cleared of trees, bowlders, and so forth.

In Crater Lake in 1916 the public was allowed to camp at designated places, but no camp grounds were developed. Public camp grounds have since been established and are maintained in a sanitary condition.

Camp grounds have been available in Platt Park since 1916, as this area has always served local communities. In 1922 two community buildings were established here for the use of campers.

In Mesa Verde the public camp grounds at Spruce Tree camp have been greatly improved.

In Rocky Mountain National Park three public camp-ground sites have been purchased from congressional appropriations and developed for the use of the public.

Three public camp grounds are maintained in Grand Canyon National Park. Formerly a charge of 25 cents a day for water was made, but during the past year this charge was abolished, with the approval of members of the House Appropriations Committee.

In Zion National Park public camp grounds have been established and recently enlarged and sanitary conveniences added.

In far-off Hawaii National Park excellent accommodations are available in the public camp grounds in the Ohia Forest.

One of the urgent needs of Glacier National Park is the establishment of adequate camp grounds, and this development must come with the completion of the Transmountain Road if motorists are to be taken care of properly.

During the past year careful study was made of the proper location of a free automobile camp in Lafayette National Park. This resulted in the acquisition, for presentation to the Government, of an ideal site for this purpose. This land has not yet been donated to the park, but we have been given assurances that it will be made available in the near future.

DONATIONS

There have been donated to the National Park Service since 1915 lands and moneys for park purposes totaling in value approximately $264,000, and, in addition, the entire area of the Lafayette National Park, Me., is a gift to the Nation.

Below is a general itemization of these gifts:

Printing	$8,000.00
Roadside clean-up	10,500.00
Land valued at	125,000.00
For museum and educational purposes	81,630.00
Buildings and equipment	29,848.11
Surveys	8,000.00
Trails	1,000.00
Total	263,978.11

ROADS IN NATIONAL PARKS

The great increase in automobile attendance has made necessary road development. The program authorized heretofore by Congress is developing, and conditions are being improved. The present bill appropriates $2,000,000 and authorizes contracts for $1,500,000 more. These roads are being built under direction of the Bureau of Public Roads, which is doing some excellent work in this connection. The committee has increased the Budget recommendation of $1,000,000 for the contract authorization to $1,500,000, particularly to make it possible for definite action on two most urgent new road projects. By that action we are advised that it will be possible for the department to develop those two road projects. One the Mount Carmel Road, in Zion National Park, which is of importance in the developing of that wonderful scenic area, southern Utah and northern Arizona, by shortening the distance necessary to travel from Zion National Park to the north rim of the Grand Canyon, making it 110 miles instead of 140. The very full cooperation of the people of Utah in this program, notwithstanding their limited tax resources, especially justifies this road at this time. The other proposition is the opening up of the southern road to the Carbon River entrance in Mount Rainier National Park, in the State of Washington. A half million dollars will be contracted for under this bill in the building of that road. It is the only park I know of where on certain days people come to the boundary of the park and can not get in because it is overcrowded.

BUREAU OF INDIAN AFFAIRS

Now, we come to the Bureau of Indian Affairs. Suffice it to say, in the time I have now, that the policy which the committee has heretofore carried out has been continued. The bill continues provision for increased facilities for education and for health, and relief of distress, and for combating the ravages of trachoma and tuberculosis, and so forth, and provides greater facilities for industrial assistance along the most effective lines, and a decrease of appropriations for rations and less gratuities, which have injured heretofore rather than relieved the Indians. In these matters, affecting largely the West, it is to be borne in mind that this action is not the action of "the gentleman from Michigan," but we are fortunate in having on the subcommittee which framed this bill my friend from Oklahoma [Mr. CARTER], who probably knows more about Indian matters than any other man in the country [applause], and the gentleman from Colorado [Mr. TAYLOR]. As

a proper balance upon them we have had the gentleman from Idaho [Mr. FRENCH], who knows the West as well as any man here. The gentleman from Ohio [Mr. MURPHY] and myself, as students, sit at their feet.

THE GEOLOGICAL SURVEY

There is a matter that has come to the attention of Members of the House in this bill, and that is the appropriation for the topographic surveys under the Geological Survey, and especially as to how fully the action of the Budget and the action of this committee meet the needs of the Temple bill. Under authority of previous appropriations, the work of a complete topographic survey of the whole United States has been under way for many years. At the rate we were proceeding, it had been admitted that it would be something like 80 years before it would be fully completed. Appropriations have been held to be in order for that purpose heretofore as a work in progress. But, further, the Temple bill was passed by Congress last session, and I will insert that in my remarks.

The Temple Act reads as follows:

[Public—No. 498—68th Cong.]

An act (H. R. 4522) to provide for the completion of the topographical survey of the United States

Be it enacted, etc., That the President be, and hereby is, authorized to complete, within a period of 20 years from the date of the passage of this act, a general utility topographical survey of the territory of the United States, including adequate horizontal and vertical control, and the securing of such topographic and hydrographic data as may be required for this purpose, and the preparation and publication of the resulting maps and data: *Provided,* That in carrying out the provisions of this act the President is authorized to utilize the services and facilities or such agency or agencies of the Government as now exist, or may hereafter be created, and to allot to them (in addition to and not in substitution for other funds available to such agencies under other appropriations or from other sources) funds from the appropriation herein authorized, or from such appropriation or appropriations as may hereafter be made for the purpose of this act.

SEC. 2. That the agencies which may be engaged in carrying out the provisions of this act are authorized to enter into cooperative agreements with and to receive funds made available by any State or civic subdivision for the purpose of expediting the completion of the mapping within its borders.

SEC. 3. The sum of $950,000 is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, to be available until the 30th day of June, 1926, for the purpose of carrying out the provisions of this act, both in the District of Columbia and elsewhere as the President may deem essential and proper.

Approved, February 27, 1925.

There is some question as to its effectiveness, because of section 3, but there is no dispute as to what was the purpose of the Temple bill. The purpose of the Temple bill was to expedite the completion of the topographic survey through more extensive cooperation of the States and municipalities with the Federal Government, and it is the policy of this committee to carry out the purpose of the Temple bill. [Applause.] And, more than that, the estimate that came to Congress from the Budget did carry out very substantially the purpose of the Temple bill, and the bill reported to you here did so. There is a great deal of misapprehension, as is illustrated by the following from a letter to me from M. M. Leighton, chief of the Illinois Geological Survey:

I respectfully call attention to the disconcerting action of the Director of the Budget in ignoring the provisions of the Temple bill (H. R. 4522), "An act to provide for the completion of the topographic survey of the United States," which was passed by Congress in the sixty-eighth session.

This bill provides for a cooperative agreement between the Federal and State Governments whereby the topographic mapping of the United States may be completed at the end of 20 years. As is set forth in the hearings of the bill (H. R. 4522), page 45, a program of appropriations for 20 years was proposed, beginning with an appropriation of $950,000 for the fiscal year beginning July 1, 1926, of which the sum of $750,000 is to be appropriated to the United States Geological Survey for topographic mapping and $200,000 to the United States Coast and Geodetic Survey for the necessary primary control.

By the act of the Director of the Budget in recommending the sum of only $477,000 for the fiscal year beginning July 1, 1926, the appropriation is reduced approximately 50 per cent, and the topographic mapping program of Congress is virtually nullified in this, the very first year of the application of the Temple bill.

The Temple bill did contain a provision calling for an appropriation of $950,000 for this purpose for 1926. The actual appropriation so far made for the topographic survey for 1926 is a little over $290,574, and the bill before you, as recommended by the Budget, carries $362,200 for that purpose. Therefore the idea is being given out that the Congress and the Budget is violating the purpose of the Temple bill and its provisions because we have not gone up to some such figure as $950,000 for 1927. The idea is being given out that we have not carried out the purpose of the Temple bill. But the fact is the Temple bill is being complied with as fully as feasible. For the last three or four years this committee has examined Dr. George Otis Smith, the head of the survey, very carefully so as to ascertain how much money would be contributed by the States for this purpose, and we have sought each year to give him enough money to meet their contributions. The item under consideration covers some exclusively Federal projects also, but our policy has been to match fully all State funds and to give those State projects the preference. For the year 1926, the current year, we did appropriate as much for that purpose, we supposed, as was necessary to meet the estimate of the Geological Survey as to how much State money there would be. If the Geological Survey had allocated the 1926 appropriation in accordance with the understanding with our committee they would only be about $20,000 short this year, as the case stands to-day, and that because the State moneys came in to a greater degree than was expected a year ago. But at least $40,000 we expected would be used for the State projects has gone to the exclusively Federal. For the year 1927, the year now before us, the estimates sent to this Congress by the Budget is sufficient to take care of all the money that will be contributed, as was expected by the Geological Survey in December, by the States for this purpose. There is sufficient, substantially, in the bill before you to meet the full amount that is now expected from the States. It is not the belief of this committee that we should appropriate on a 100 per cent basis to carry on this work. For many years this work has been cooperative on at least a 50-50 basis, and we do not believe that policy should now be changed and that it should be a 100 per cent Federal proposition where before it was only a 50 per cent proposition. I do not understand that the Temple bill was passed upon any theory that there should be any change in that regard.

Suppose we had appropriated $950,000 for 1926? What would we have accomplished? Nothing whatever, because the bureau could not have used the money, for two reasons: First, funds were not available from the States to match the Federal contribution except to the extent of about $350,000, so that as to the remaining $600,000 of the $950,000 there was no available money from the States to match it. Second, if there had been money available to match it, they could not have gotten the necessary men to do the work. Such men have to be especially trained for a very technical work, and those men can not be secured in a hurry in such a great number.

I have taken up this matter with Dr. George Otis Smith and with the gentleman from Pennsylvania [Mr. TEMPLE] because of the great interest that is manifest in the House and the great interest manifested in the country as to the carrying out of the Temple Act. As I say, I took up the matter with Dr. George Otis Smith, and after some conversations with him, in order to establish the facts, I wrote him a letter on January 6 setting forth the facts as I understand them, and I have his confirmation of them under that same date. Doctor Smith now estimates that $381,250 is all the States can be depended upon to contribute in 1927, and that to meet that $366,200 will be required in this appropriation. The bill before you carries $362,200, which is a very substantial compliance with the need estimated by the head of the Geological Survey.

Of course, there are some engineers in the country who in their enthusiasm for this would like us to hang up an appropriation of $900,000, even if they knew it could not be used; they would like to have that much of an appropriation as a spur to induce State legislatures to appropriate the money. But we have enough trouble in holding down the total of the Budget and in taking care of absolutely essential needs without padding it with fictitious paper appropriations.

I am glad to say that we hope, through an amendment to the bill, to be able to take care of the thing in a very liberal fashion, and in a fashion that will be satisfactory to Doctor Temple, father of the bill, and to the Geological Survey, so far as this work in cooperation with the States is concerned.

Further, I would like to say that it is the feeling of the committee that this work should be carried on as rapidly as the States will cooperate, manifesting their cooperation by actually producing the money, not in any spasmodic fashion, but in a steadily increasing amount if the interest of the States proves real and continuing. In a letter to me January 5, 1926, Dr.

George Otis Smith confirms my understanding as to the cooperative basis of the Temple Act, saying:

If the Temple Act is to be put into force by means of supplemental appropriations, I regard the restriction of their expenditure to cooperative mapping projects as in accord with the spirit of the act. It has been the idea from the start that the completion of the mapping of each State could be expedited by at least half of the expense being met from State funds, and the planning of the whole project had that in view. Of course, this does not meet all the needs for topographic mapping, since the military program of the General Staff may require surveys where State cooperation is not available and the mapping of the national forests and other parts of the public domain is urgently needed for strictly Federal purposes. Other Government departments also make specific requests for topographic surveys from time to time.

As regards cooperative State funds for 1927, I have no change to offer now in the forecast made, I believe, when I appeared before your committee—namely, $381,250.

My further correspondence with Doctor Smith follows:

JANUARY 6, 1926.

Hon. GEORGE OTIS SMITH,
Director United States Geological Survey,
Department of the Interior, Washington, D. C.

MY DEAR DOCTOR SMITH: As a result of our conference this morning concerning the work to be carried forward under the Temple bill and otherwise in 1926 and 1927 in connection with topographic surveys by the Federal Government in cooperation with States and municipalities, it is my understanding that the following are the facts:

That the work thus carried on in cooperation with the States and municipalities has been understood by you and by our subcommittee to have the preference over purely Federal work in recent years. Indicating this in your statement before our committee in connection with the 1926 Interior Department appropriation bill, you stated: "The policy of meeting as far as possible all State cooperation offered is being followed, thereby accomplishing nearly double the amount of work that could be done with the Federal appropriation alone."

The committee has for the past three or four years gone with special care into the question of the amount of money which would be available from State and municipal sources for such cooperation, and have thoroughly indicated its interest in meeting such contributions. In 1923 the amount of Federal money allotted from the topographic survey appropriation for such cooperation was $297,897; in 1924 it was $315,295; in 1925 it was $328,200. Certainly this committee had a right to expect that in 1926 at least $328,200, if not more, would be allocated from this appropriation for State cooperation. As a matter of fact, as you now advise me, only $290,574 has been so allotted. You further advise me that $363,824 is the amount that would be required the current year to fully meet the State cooperation, or $73,300 more than is available under the present allocation of the current appropriation.

For 1927 you state that $362,200 is the amount that may be reasonably expected to be necessary to fully meet State cooperation. I understand that due to the uncertainty of future action by the States this can not be accurately stated, but the figure given is the one which you had in mind at the time you appeared before our committee in connection with the 1925 bill, and which is as accurate a statement as you feel you can make at this time. You stated at the time of our hearing that the State cooperation funds would amount to $381,250, and you still feel that is the best estimate you can make. Inasmuch as not all of the money expended by the Federal Government in cooperation is on a dollar for dollar basis, the amount of the Federal appropriation does not have to be as much as $381,250. It appears from this that if your own allocation for 1926 is permitted to stand, instead of an allocation in accordance with the expectation of the committee, and if your own program for 1927 is permitted to stand with the allocation of $362,200 for cooperation with the States, an additional appropriation of $73,300 for 1926 and assurance that $362,200 will actually be held available for this purpose in 1927 will fully match all State and municipal contributions that can be depended upon in 1926 and 1927.

It would seem, therefore, under the facts presented to me by you that if the item for topographic surveys in the pending 1927 Interior Department appropriation bill were amended to read as follows that the purposes of the Temple Act for 1926 and 1927 would be fully met:

"For topographic surveys in various portions of the United States, including lands in national forests, $525,000, of which amount not to exceed $300,000 may be expended for personal services in the District of Columbia: *Provided*, That no part of this appropriation shall be expended in cooperation with States or municipalities except upon the basis of the State or municipality bearing all of the expense incident thereto in excess of such an amount as is necessary for the Geological Survey to perform its share of standard topographic surveys, such share of the Geological Survey in no case exceeding 50 per cent: *Provided further*, That $445,500 of this amount shall be available only for such cooperation with States or municipalities, and of this $73,300 shall be immediately available."

You will understand that this letter is not to be taken as committing me in any way to support of such an increased appropriation, but is only for the purpose of placing my understanding of the facts definitely before you for your confirmation, so that I may be sure of presenting the question with absolute accuracy to my subcommittee.

Thanking you for your cooperation in this matter, I am

Yours sincerely,

LOUIS C. CRAMTON.

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY,
Washington, January 6, 1926.

Hon. LOUIS C. CRAMTON,
House of Representatives.

MY DEAR MR. CHAIRMAN: In reply to your letter of to-day:

In allotting the $445,000 presented to the Budget as the exact equivalent of the current appropriation for topographic surveys, I stated that $362,200 of Federal funds was needed to meet State cooperation, and I repeated this figure last month to your committee, as stated in your letter. That amount I now find should be $366,200 to meet the $381,250 of State funds that I believe can be depended upon in 1927.

On this basis, the final proviso in the amended item, as suggested in your letter, should read $439,500, and the total, $516,000, with the limitation for personal services in the District of Columbia placed at $300,000.

This amendment would then provide funds sufficient to fully meet the State cooperation already accepted in 1926 and the amount reported to you as expected for 1927, and so meets the expected needs under the Temple Act for these two years.

I trust that the above statement serves your purpose in confirming your understanding, there being only the simple change of $4,000 from my former statement as quoted by you.

Yours cordially,

GEO. OTIS SMITH, *Director.*

RECLAMATION

The matter of irrigation and reclamation has had special attention in the debate on this bill. I regret that there is not time to go into some details as fully as I would like to go into them and as, perhaps, some Members of the House would like to have me do.

The gentleman from Nebraska [Mr. SIMMONS] in a discussion of the bill discussed at length the attitude of the Secretary of the Interior, and especially the Director of Reclamation, concerning the North Platte project, and criticized their position as to certain matters. I have a statement from Doctor Mead replying to some discussion of his position which I will insert in the RECORD instead of taking the time to discuss it now.

The statement is as follows;

UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, January 7, 1926.

Hon. LOUIS C. CRAMTON,
Chairman Subcommittee on Interior Appropriations,
House of Representatives, Washington, D. C.

DEAR MR. CRAMTON: I prepared a memorandum in reply to Mr. Simmons's statements and handed duplicates to the Secretary asking him to send one to you.

The statistics at the outset of my statement show the appalling financial situation of that project. They not only did not pay last year on the North Platte project, but are not paying this year. It seemed necessary to show by quotation that Mr. Simmons's argument misstated my position.

Very truly yours,

ELWOOD MEAD, *Commissioner.*

Memorandum on comments of Representative SIMMONS, pages 1543–1551, CONGRESSIONAL RECORD for January 5

As far as the North Platte project is concerned, the United States has been looked upon and used as a credit agency. The arrears of payments are so large as to be a menace to its solvency. The amounts uncollected for construction and operation and maintenance assessments aggregate the huge total of $1,931,690, and the payments which became due in December, 1925, will increase this sum to more than two and one-half million dollars.

As of November 30, 1925, the amounts uncollected for the five-year period 1920–1924 were $574,251 for operation and maintenance charges, and $1,254,986 for construction charges, or a total of $1,829,237.

The interstate division, which is the one with which the United States is endeavoring to negotiate a contract, has failed to pay the United States $1,682,567 for construction charges and operation and maintenance expenses.

Relief was granted this project under the act of May 9, 1924 (43 Stat. 116), amounting to $751,044, on construction charges, and $455,872 on operation and maintenance, or a total of $1,206,916, which is the largest amount of relief granted any project under that act.

Mr. SIMMONS refers to isolated parts of the testimony, but ignores the matter appearing on pages 92 and 93 of the record, which makes it clear that Doctor Mead and the committee—at least certain members of it, particularly Mr. HAYDEN—did not agree with the interpretation then placed by Mr. SIMMONS upon certain provisions of the bill. Mr. HAYDEN emphasizes the point that joint or collective liability should be required, referring in this connection to the contract with the Salt River Valley Association, which expressly provides for such joint liability.

Mr. SIMMONS does not correctly interpret the testimony of Doctor Mead, on pages 80, 81, 121, and elsewhere. This discussion relates entirely to classification or reclassification of land. Doctor Mead was asked whether or not, in his opinion, land could be classified in such a way that the construction charge on that land could be increased, to which reply was made that it could not be so increased without the consent of the landowner affected. Throughout the testimony of Doctor Mead this was the opinion expressed by him.

It is the opinion to which he still adheres. There has never been demand or expectation that the construction charge on a particular tract of land would be increased without the consent of the landowner as the result of classification or reclassification. This testimony all had reference to section 5 of the bill then before the committee (now subsection F of section 4, act of December 5, 1924). No mention whatever was made in this connection of joint liability, and Doctor Mead did not at that time have this in mind. Mr. Simmons, however, connects it with the matter of joint liability, which he discusses under section 7 of the bill. The question of joint liability has nothing whatever to do with classification or the fixing of different construction charges against different classes of land. So far as joint liability is concerned, the construction charges would remain basically the same. Each shareholder in the association, or water-right applicant, will be required to bear his proportionate share of assessments necessary to meet any deficit created by defaulting shareholders or applicants. This is precisely what is done at the present time under the contracts with the Salt River Water Users' Association and the association on the Orland project. That this was well known to the committee is shown by the following appearing on pages 92 and 93 of the hearings:

"Mr. HAYDEN. Let me finish. On all new projects you would adopt this plan, and on all existing projects, where there is a contract for a payment on a different basis, the Secretary is authorized upon request to amend the contract?

"Mr. MEAD. Yes.

"Mr. HAYDEN. That would leave it within the discretion of the water users on any existing project to accept or reject the plan as it might appear to be to their interest?

"Mr. MEAD. That is correct, and that is not understood. In some cases they think it would be mandatory upon an existing contract to accept this if it is passed, which is not the case. It rests with the people on the project.

"The CHAIRMAN. Suppose we organize a district; in that case——

"Mr. MEAD. It would be the action of the district.

"Mr. SIMMONS. Right there. Your idea is that section 7, so far as existing objects is concerned, shall be optional with each unit holder?

"Mr. MEAD. I think it will be optional with the unit.

"Mr. SIMMONS. In our North Platte project the unit holders have individual contracts, and you would extend this relief to the unit holder, so that if one wanted to come under the provisions of the bill he could come under, and if the one next to him did not want to come under the provisions of the bill he could stay out?

"Mr. MEAD. If there was a situation of that kind, yes. I do not believe a situation of that kind would arise.

"Mr. SIMMONS. You would not object to so amending this bill that it would cover that situation if it did arise?

"Mr. MEAD. No.

"Mr. HAYDEN. I think the committee would object, for the reason that the theory has been that there are serious disadvantages in dealing with individual water users, and the tendency has been wherever possible to encourage the organization of irrigation districts or having incorporated water users' associations, which is practically the same thing, so that there might be just the one contract between the organization and the Government for payment and binding them individually and collectively to make the payment.

"In the Salt River project we have that kind of an arrangement now. There is a payment to be made of some $600,000, and Governor Campbell told me the other day there were delinquencies of $38,000 from individual water users which the water users of the project as a whole had to pick up and pay in on the due date regardless of whether the others had paid it or not. The Government got its money in full at the time it was due, which is of great advantage to the United States, and it seems to me if we are to extend the benefits of this relief, that accompanying the offer there should be the requirement that you shall organize a district plan and do business as a unit with the Government. You should not open up the law so that one man can have one system of payment and another man another system of payment, which would inevitably lead to confusion.

"Mr. SIMMONS. Take these projects where the report shows there is a loss to the Government. Some of the lands under that project are capable of paying out. Under your theory you would pick up their loss. Take on my own project—I do not know what lands that refers to, but they show a probable loss to the Government of $600,000 on the North Platte project. Now the lands capable of paying out are not now obligated to pay that money back to the Government, but on your theory, if you force them into a district and force a joint and individual obligation, the district will then have to go out and pick up that $600,000 and pay it to the Government.

"Mr. HAYDEN. It just comes back to a question of dollars and cents to the great majority of water users in that district. Is it worth more to them to accept a basis of payment of 5 per cent of their gross production on that project, probably extending their time of payment for a larger sum of money, a sum increased by $600,000, than it is for them to stand on existing contracts? If they can figure out as a matter of dollars and cents that they had better assume that additional sum to take care of the lands that have fallen down, they will do it. If they do not figure that, they will not.

"Mr. SIMMONS. Take the other end of it, is it better for the lands that can pay out to pay out, or for the Government to take an attitude that it will force them to lose all their money?

"Mr. HAYDEN. This is a new deal. You can handle the situation in a different way if you want to. You can change the limits of the district."

Mr. SIMMONS is in error when he states, as reported on page 163 of the record, the demand is now made that the water users assume in addition to their present obligations, the payment of $600,000, which Doctor Mead as a member of the fact finders' committee, reported as a probable loss. No such demand has been made and there is no basis whatever for any such claim. All that has been demanded is that the association as a whole assume the obligations of making payment in accordance with the present contracts of the water users. This is the only kind of a contract which could now be executed. Contract could not properly be made on the assumption that Congress will in the future authorize a reduction of this indebtedness. It was the recommendation of the fact finders that the charges against unproductive lands be remitted and it is the present hope and expectation of Doctor Mead that this will be authorized by Congress. If so the charges against worthless and unproductive land will be eliminated, but the association should assume the joint liability of making payments against the productive land. The classification of land recently made under the direction of the Board of Survey and Adjustments shows that in the interstate division there were found to be only 532 acres of class 6 lands which were permanently unproductive. There were found to be 25,399 acres of land classified as No. 5, regarded as temporarily unproductive. The discussion of Mr. SIMMONS leaves the impression that he believes payment is demanded on land classified as unproductive, which is not a correct statement of conditions. It has been and is the practice of the bureau to suspend charges against areas temporarily unproductive. This has been provided for in all contracts made and regulations promulgated.

The discussion of Mr. SIMMONS implies that the question of joint liability is something entirely new so far as the North Platte project is concerned. In this he entirely ignores the contract with the North Platte Valley Water Users' Association, dated April 25, 1906, articles 4 and 5 of which are quoted as follows:

"Fourth. That the payments for the water rights to be issued to the shareholders of said association, under the provisions of said act of Congress, shall be divided into not less than 10 annual payments, the first of which shall be payable when the water is first delivered from said works, or within a reasonable time thereafter, and after due notice thereof by the Secretary of the Interior to the association, and that the cost of said proposed irrigation works shall be apportioned equally per acre among those acquiring such rights.

"Fifth. That the said water users' association hereby guarantees the payments for that part of the cost of the irrigation works which shall be apportioned by the Secretary of the Interior to its shareholders, and will promptly levy calls or assessments therefor and for cost of maintenance and operation as may be assessed from year to year by the Secretary of the Interior and collect or require prompt payment thereof in such manner as the Secretary of the Interior may direct; that it will promptly pay the sums collected by it to the receiver of the local land office for the district in which said lands are situated; that it will promptly employ the means provided and authorized by the said articles of incorporation and by-laws for the enforcement of such collections, and will not change, alter, or amend its articles of incorporation or by-laws in any manner whereby such means of collection, or the lien given to it by the shareholders to secure the payment thereof,

or of any assessments contemplated or authorized thereby, shall be impaired, diminished, or rendered less effective, without the consent of the Secretary of the Interior."

Mr. SIMMONS states that Doctor Mead, in his testimony before the committee, stated that the execution of new contracts is optional with the water users and that the Secretary of the Interior has no discretion in this connection. This is not a correct statement of the testimony. It was stated by Doctor Mead that, in his opinion, the execution of contracts was optional with the water users, in that they could not be forced to abrogate their old contracts and many new ones; but nowhere is it stated that there is not also a like privilege on the part of the Secretary. The option is not wholly with the water user. The Secretary is merely authorized, in his discretion, to execute new contracts upon request of the water user. He is not directed to do this. This is the proper interpretation of Doctor Mead's testimony before the committee, and it is the interpretation of the legal advisers of the bureau and of the Interior Department.

Mr. BLANTON. Will the gentleman yield for a question?

Mr. CRAMTON. Yes; but very briefly. I do not want to enter into a controversy.

Mr. BLANTON. I am not going to have any controversy with the gentleman, but the gentleman is the only one who knows anything about this bill whom we have had a chance to question. The gentleman spoke of keeping within the Budget. On small matters I believe in the committee going out of the Budget, but the gentleman has put in an item of $400,000 here for the Baker project.

Mr. CRAMTON. I want to yield to the gentleman, but I can not yield for a discussion. I will state the policy of this committee in a nutshell, but I do not want to argue about it, because I have not the time. The position of the committee is just this: So far as the total of the bill is concerned, we are going to keep inside of the Budget figures, because the Budget program will never amount to anything unless it is loyally supported alike by the Executive and the Congress, and the Congress up to this time has had a splendid record in that regard, and we keep within the total as to this bill. We sometimes approve items not in the Budget or increase items and we sometimes cut out items approved by the Budget.

Mr. BLANTON. But the gentleman's committee did approve a $400,000 item that the Budget did not recommend.

Mr. CRAMTON. Yes; which the Budget was not asked by the Secretary of the Interior to make a recommendation upon for the Baker project in Oregon, which the chairman of the committee and one or two other members have visited and inspected twice personally, and which I believe is at least equal to the others.

Now, I can not yield further, and I hope the gentleman will not press me.

Mr. BLANTON. I could ask the gentleman a very interesting question.

Mr. CRAMTON. Well, let us keep that until the discussion under the five-minute rule.

The reclamation fund was created something over 20 years ago as a revolving fund for the development of the West. It was not created for the personal benefit of any individual or set of individuals, but for the development of the West, those great arid regions where Government aid was held to be necessary by reason of the immensity of the projects under consideration, the fact that interstate rights came in or the fact that the Federal credit seemed to be necessary to initiate these great projects for the development of the West. It was created as a revolving fund; that is to say, these irrigation works were to be constructed by money that came from the sale of public lands, and later, money that came from royalties on mineral leases. The most money that now comes in does come from those leases rather than from sales of public lands. The works were to be built by the Government. Then the water user or the new settler was to come on and develop his land and make a home, and was to have 10 years, without interest, to repay the cost of construction, and naturally he was to pay the cost of operating the project and bringing the water to his farm each year. The law then was changed to make it 20 years, and then, finally, it was changed to an indefinite period, which I will discuss later.

Under this policy a number of projects were built, until about two years ago the Secretary of the Interior declared that the policy was a failure, or words to that effect; that most of the projects were insolvent, and then there came a message to the Congress from the President accompanying the report of the fact finders, so-called, setting forth that $28,000,000 out of $150,000,000 that had been spent in this work must be wiped off the books and must be charged to profit and loss.

This House had always had its doubts about the wisdom of this policy. I am speaking of a majority of the Members of the House. In the first place only a small minority of the Members have had any personal contact with the subject, have ever seen that alluring spectacle of sage brush on one side of the fence and alfalfa on the other. Most of us are from districts that have no direct contact with the problem, and the Hon. James R. Mann, who was the greatest influence in the House when I came to Congress and for a number of years afterwards, I remember very well always shrugged his shoulders at the idea of there being any reimbursement of the moneys the Government was expending, and I think most of us were influenced by that and came to feel there was some question about the wisdom of the policy.

So far as I am concerned I am frank to say that since I have had responsibilities in connection with appropriations and realizing the importance of this matter to the West, I have endeavored to visit and to study these problems on the ground, have visited nearly all of the projects one or more times, and realize fully that reclamation is not fairly to be called, as a national policy, a failure. I believe it has proven it can succeed, and I believe it is a desirable policy for the country to continue. [Applause.] I believe, and I have found in the West, it seems to me, a majority sentiment in favor of this attitude, that those who seek to have that policy continued under conditions that will permit a complete success are the best friends of reclamation, rather than those who through the pressure of local interest or the selfish attitude of water users here and there are insisting upon conditions being continued that for 20 years have helped to create such a condition as has heretofore been denominated failure.

There were some lessons we ought to have learned from 20 years' experience. Necessarily, we would not do everything right the first time, and we ought now to take advantage of the lessons of 20 years and steer our course in the future to avoid those things that have threatened wreck heretofore. The first lesson to be drawn from the story of the past is that these projects ought to be selected and administered on a basis of merit rather than of politics. [Applause.] You can not select, sitting here in Congress, projects with the greatest of wisdom; but in the past many projects were selected and initiated just because some Senator or some Congressman pressed for them and were not selected upon their merits.

Some have said to me, "You are from Michigan; what business is this of yours? There is not any need for your stressing economy in these appropriations, because they come from the reclamation fund, and the State of Michigan does not care about that. It does not affect your taxes." I am interested for two reasons, and every Member here is interested for two reasons, in the most wise, businesslike, and successful administration of the reclamation fund. First, I have seen, on most of these projects, they wisely do not use anything but Michigan automobiles, and I have seen numbers of them out there, and I realize that Michigan is interested in whatever helps to build up other sections of the country. [Applause.]

We must look at things not from a local point of view but from a national point of view. Granting that the money does not come from the Treasury, granting that it does not affect taxes that we pay in Michigan, you must remember that it is a trust fund, set aside for a specific purpose, and any man ought to administer a trust fund more carefully than he would administer his own money. [Applause.] We have no right to take action that will permit the dissipation and destruction of the reclamation fund.

Now, inasmuch as I may not get to it again, my friend from Nebraska [Mr. SIMMONS] emphasized that there is danger of the department not carrying into effect a certain policy. He has emphasized this interest at least in the indefinite time of payment. Remember this, that it is a revolving fund, and it will only serve as it does revolve. It was to be paid first in 10 years without interest, and then 20 years without interest, and in the legislation which is now the law these new projects shall be paid each year at the rate of 5 per cent on the gross crop returns. Doctor Mead did favor that, felt that in theory it had something to commend it, but after some experience he admits it is impracticable to fairly administer.

Leaving that aside, as to the new projects now proposed, we asked Doctor Mead how long it would be before the money would come back to the reclamation fund if we built the projects under the 5 per cent provision, and his reply in each case was that it would be from 75 to 138 years before the money came back to the reclamation fund, and all that time without interest. If it is true that they can not pay back this money in less than 75 years, the reclamation policy will not survive 75 years. The fund then ceases to revolve. A fund

that only comes back in 75 or 135 years will not come back—it is frozen. I wish we could bring in legislation to get away from the 5 per cent provision.

Mr. SUMMERS of Washington. Will the gentleman yield?

Mr. CRAMTON. I have not much time——

Mr. SUMMERS of Washington. As one opposed to the 5 per cent provision, will the gentleman tell the House who recommended the plan?

Mr. CRAMTON. I do not know. I have heard some statements one way and the other, but we will let it stand at that.

Mr. SUMMERS of Washington. It was recommended to Congress——

Mr. CRAMTON. By the fact finding commission.

Mr. SIMMONS. Will the gentleman yield?

Mr. CRAMTON. I really ought not to yield, I have so little time.

Mr. SIMMONS. I just wanted to ask the gentleman if he would advise the House whether or not that legislation he refers to was approved by the President of the United States?

Mr. CRAMTON. Oh, the President of the United States has to approve every bill, every appropriation bill.

Mr. SIMMONS. Was it not approved before Congress passed it? Was it not passed at his request?

Mr. CRAMTON. I do not know; I guarantee that you would not get any word of approval out of the President for it to-day, and there are very few men from the West on the floor who will approve it to-day. But we ought not to be quibbling about who approved this or who approved that or who suggested this thing and who suggested that. We ought to figure out what is best and wise to do to-day. [Applause.]

Mr. WINTER. Will the gentleman yield?

Mr. CRAMTON. For a very brief question.

Mr. WINTER. Is it not true that under the 5 per cent provision while some projects might take 75 or 125 years a number will not take more than 20 years?

Mr. CRAMTON. I am talking about the five projects initiated a year ago, and the shortest time given by Doctor Mead was 75 years. I will further say that that legislation was so wisely drawn that the district has an option, and that any district that can pay it in 20 years will not exercise the option, but those who can not pay in less than 75 years will exercise the option—just as it was in one project, which I will not name, where they have considerable fruit cultivation and the production would shorten the time; they have been trying to get the bureau to give them the 5 per cent on all except the fruit land, and on that they want the 20 years.

In May, 1924, it was said that the policy of reclamation was not a success, and then in the deficiency act of 1924, in May of that year, there was inserted in the act a provision for five new projects, only one of which had been approved by any agency outside of Congress, and no one of which had been the subject of a hearing before any committee of Congress. There was also put in this new legislation that I refer to, which could not get a majority of the votes of the Members from the public-land States if it came before the House to-day.

When the estimates came before us a year ago for the building of those five projects that had been initiated in that political manner, our committee was confronted with this problem, and we were confronted again this year with the same problem, and you are confronted now with the same problem, and you gentlemen who come from these States have the same problem; that is, that there could be one of three things done with the building of those five projects. The total amount involved in the building of those five projects was about $50,000,000. It is not a minor matter, but involves a large sum of money. But there is more involved than that. If reclamation is a wise policy, if the successful building and development of those projects is a wise thing to seek, then there is much more involved. There is all of the good that is going to come to great areas in the West from the successful operation of the funds where heretofore there has been so much of heart-breaking lack of success.

Mr. CARTER of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. CRAMTON. Yes.

Mr. CARTER of Oklahoma. What amount is in the reclamation fund now, if the gentleman has those figures in mind?

Mr. CRAMTON. There will be available in the fund on the 1st of next July $12,269,000. The bill carries appropriations of $7,706,000 and reappropriations of $4,563,000, or a total of something over $12,000,000.

Mr. CARTER of Oklahoma. So that if this 5 per cent plan were carried out, almost 50 per cent of the available funds now on hand will be tied up for the 75 years to 138 years.

Mr. CRAMTON. Yes; eventually. Of course this fund gets accruals from the leasing acts constantly, but there will be $50,000,000 tied up for from 75 years to 138 years if that 5 per cent plan is permitted to operate. The amount available in the fund and the total of appropriations and reappropriations here proposed is stated as follows by Doctor Mead.

UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, January 6, 1926.

Hon. LOUIS C. CRAMTON,
Chairman, Subcommittee on Appropriations for the Interior Department, House of Representatives,
Washington, D. C.

MY DEAR MR. CRAMTON: In response to your telephone request of yesterday I have made an estimate of the probable amount which would be authorized for expenditure by the Bureau of Reclamation during the fiscal year if the Interior Department appropriation bill as now proposed would become law. Statement in detail by projects is inclosed.

The amounts estimated as available under proposed authorizations for the expenditure of unexpended balances, as in the cases of Salt Lake Basin, Owyhee, Spanish Springs, etc., are more or less problematical, depending upon the rapidity with which the special provisions of the appropriation act for the fiscal year 1926 are met.

Very truly yours,

ELWOOD MEAD, *Commissioner.*

(Inclosure 15397.)

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION.

(Appropriations, fiscal year 1927)

Estimated total authorized for expenditure, based on draft of proposed bill submitted with Mr. Cramton's letter of December 29, 1925

State	Project	Amount specified for 1927 in proposed bill	Unexpended balance reappropriated	Probable total available
Arizona	Salt River	$3,000		$3,000
Arizona-California	Yuma	400,000	$72,000	472,000
Do	Yuma Auxiliary			
California	Orland	635,000		635,000
Colorado	Grand Valley	80,000	20,000	100,000
Do	Uncompahgre	145,000		145,000
Idaho	Minidoka	2,005,000		2,005,000
Idaho-Oregon	Boise	394,000	111,000	505,000
Montana	Huntley	36,000	60,000	96,000
Do	Milk River	72,000		72,000
Do	Sun River	59,000	500,000	559,000
Montana-North Dakota	Lower Yellowstone	72,000	50,000	122,000
Nebraska-Wyoming	North Platte	1,800,000		1,800,000
Nevada	Newlands	135,000	200,000	335,000
Do	Spanish Springs		450,000	450,000
New Mexico	Carlsbad	50,000		50,000
New Mexico-Texas	Rio Grande	507,000		507,000
Oregon	Baker		490,000	490,000
Do	Vale		450,000	450,000
Do	Umatilla	407,000		407,000
Oregon-California	Klamath	140,000	260,000	500,000
Oregon-Idaho	Owyhee		275,000	275,000
South Dakota	Belle Fourche	65,000		65,000
Utah	Salt Lake Basin		1,000,000	1,000,000
Do	Strawberry Valley	39,000		39,000
Washington	Okanogan	65,000		65,000
Do	Yakima	294,000		294,000
Do	Kittitas		375,000	375,000
Wyoming-Montana	Shoshone	128,000	150,000	278,000
Do	Secondary	75,000		75,000
Do	Economic surveys	100,000		100,000
Total from reclamation fund.		7,706,000	4,563,000	12,269,000

There were three options before us then and now: First, we could just appropriate the money and pay no attention to whether it was being appropriated under conditions that would insure its wise expenditure.

Mr. LEAVITT. Mr. Chairman, will the gentleman yield?

Mr. CRAMTON. Let me complete this statement. As to each of those five projects, we asked Doctor Mead, the Commissioner of Reclamation, in November, 1924, whether under the law as it stood then, taking into account this deficiency act that was soon to be a law, including that, he considered that those projects were feasible, and he said that with the law as it stood those projects were not feasible. Mr. Chairman, notwithstanding the danger signals from the experience of the past, notwithstanding the warning from the administrative department, we could have gone ahead with the appropriations with no attempt to safeguard them. That was the easy way and the wrong way. Secondly, we could have taken warning and have stricken out the appropriations for those projects. We would have been justified not only by those warnings but by the fact that the Secretary of Agriculture at

that time said that there was more land producing farm crops than was necessary, and that it was undesirable to increase the farm products. Not only did Secretary Wallace then believe that, but to-day Secretary Jardine and Secretary Work say the same things. We would have been justified, but we realized the tremendous pressure back of these projects, and it seemed to us wise to do the third thing. We approved the appropriations, but we sought to surround their expenditure not with general legislation, for that is not within our province, but with provisions relating alone to these appropriations and that would insure their success. To those provisions I want now to refer. First I yield to the gentleman from Montana [Mr. LEAVITT].

Mr. LEAVITT. Would it not be a little more complete, with respect to the 5 per cent repayment plan, instead of saying that it would be 75 to 138 years for which that fund would be tied up, to include a statement that a part of it would begin to come back within a very brief time.

Mr. CRAMTON. Oh, I think everybody understands that there would be 5 per cent each year.

Mr. SUMNERS of Texas. Mr. Chairman, will the gentleman yield?

Mr. CRAMTON. I yield to my friend for a question.

Mr. SUMNERS of Texas. I am very much interested in the observation which the gentleman just made, that agriculture is supposed to be in a bad condition now by reason of a surplus. How does it happen to be a sound Government policy, when agriculture is in that situation, to expend the public money to put greater competition into the field against those who are already not making money in that business?

Mr. CRAMTON. The Secretary of the Interior and the Secretary of Agriculture both say it is not good policy.

Mr. CARTER of Oklahoma. I think the agricultural products from irrigated lands represent only a very small percentage of the production of crops in the United States.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CARTER of Oklahoma. Mr. Chairman, I yield 30 minutes of my time to the gentleman from Michigan.

Mr. CRAMTON. I thank the gentleman from Oklahoma. Without being diverted too much into an argument about that, I might make this observation. I do not entirely subscribe to that doctrine, so far as these particular sections are concerned. In many cases they meet a need that does not come in competition with other sections of the country. Nobody thinks that the development of the iceburg-lettuce industry in the Imperial Valley comes in competition with general farming. It has found a new market. It does not come in competition with other sections.

Mr. SUMNERS of Texas. I did not mean to indicate antagonism, but I thought there ought to be a little fuller explanation now.

Mr. LEAVITT, Mr. WINTER, and Mr. SIMMONS rose.

Mr. CRAMTON. I am sorry, gentlemen, that I can not yield, but I have just so much time. When I get through with the statement I desire to make I shall be very glad to yield then if I have the time. Here is what we sought to do as safeguards. I think the biggest desire of the gentlemen who come from these States, who are most concerned, is to have these projects built under conditions that will insure their success, and there are some things to be done which, if they are not done before you expend the money, never can be done. We just ask that these things be considered on their merits. First, we provide for the creation of an irrigation district, so that the Government will do business with the district instead of with a great many individuals, and I do not think anybody objects to that. Next, we provide for the limitation of the price at which land shall be sold to the settler.

The purpose of the reclamation fund is to develop the West through bringing men onto the soil who will till the soil and make their homes there and own the land. This, as I think I have said before in this House, is the oustanding justification of this policy. To have men on the soil tilling the soil they own and where they have their homes is an end greatly to be desired. They are the best bulwark against bolshevism and communism. The Government loans this money without interest for a long period. Originally it was intended that it would be public-owned land. Senator Clark said, when they passed the bill, that over 90 per cent of it would be public-owned land. As a matter of fact, 53 per cent of it to-day is private-owned land, and in most of the projects now proposed nearly all of it is private-owned land.

Now, what does that mean? The history of the past shows that human nature runs true to form. When a man owns land and the Government comes along and improves a project, the owner of the land sells the land at the highest price he can get and capitalizes the enthusiastic expectations of the settler as to how much he will get out of the soil, and the greater the expectations of the proposed settler as to what he will get out of the soil the higher the price the owner will charge; and the fact that the settler is not going to pay interest on the water-right cost makes it possible for the owner of the land to charge so much more for it.

Buying the land at a high speculative price, payable in a short term of years with high interest rate, the settler took on burdens that made it impossible to pay his obligations to the Government for the water rights. I have known as much as $100 per acre to be charged for raw sage-brush land not worth over $10. So the owner of the land, it is believed, should come to a contract and agreement to the effect that there must be an appraisal of the land without reference to the construction of the project, and the price at which such lands are sold be subject to approval of the department. I have not heard any criticism of that here, and I shall not take any longer time on it.

The third provision was this: For State cooperation. Doctor Mead emphasized it to the legislative committee and he did also to our committee, declaring that it was not sufficient to put these settlers on the land, but there must be some provision made for proper credit facilities for them. There must be money available at a low rate of interest for leveling the soil preparatory to irrigation and construction of buildings, and so forth. I have never been able to go as far as Doctor Mead as to these requirements. I believe that pioneering always will appeal to a certain quality of men. It will always involve hardship. It can not be otherwise. You must not expect to make this too easy. The experience that has been had on these projects shows that these men, however, do need better credit facilities than the men generally have received on these projects.

Ten per cent on money needed for the development of the dairy herd and otherwise has been the means of breaking the back of the settler. A bill has been introduced by the gentleman from Wyoming [Mr. WINTER] to meet that situation, providing for the loaning of money to these settlers from the reclamation fund. A certain amount is to be loaned. That bill was favorably reported to the House by the legislative committee. It passed the Senate but was recalled, and it never came back to us.

There are three objections to that money being used from the reclamation fund. In the first place, as a Federal proposition the Federal Government does enough in building the works and getting the water on the land. Secondly, there is too much long-range administration and too much chance to play politics in this thing when the Federal Government does it; and thirdly, each State will insist upon having the same line of credit on these projects. The amount granted in one State will be demanded by other States, although the conditions may be entirely different on different projects. Credit improperly extended is a curse and not a help, while properly given it may mean the margin between success and failure. I have been impressed by the need of some provision for credit of this kind, and so our committee has put in a provision which was suggested by the law of the State of Washington. There was there a land settlement act for the development of land in that State and a fund whereby money could be loaned to the settlers on that land. We provided with respect to the Kittitas project last year that there must be an assumption of responsibility by the State for financing the settler. A contract has been made. Although there was a good deal of reluctance on the part of the governor of that State, he finally did sign a contract which has now been executed by the Secretary of the Interior by which the State enters into this contract with a local corporation organized for that purpose, with $300,000 at its disposal, for the purpose of loaning money to those settlers. It was said it could not be done, but it has been done, and work on the Kittitas is going forward and under very favorable auspices.

In the other States the thing has not been worked out yet; and so the items in the bill now before us have to do with the Vale, Owyhee, and Baker projects in Oregon, the Sun River in Montana, and Spanish Springs in Nevada. We have sought a provision to this effect:

That no part of the sum provided for herein shall be expended for construction purposes until a contract or contracts shall have been executed between the United States and the State or States wherein said projects are situated, whereby such State or States shall assume the duty and responsibility of promoting the development and settlement of the division after completion, the securing, selecting, and financing of settlers to enable the purchase of the required livestock, equipment, and supplies, and the improvement of the lands to render

them habitable and productive. In each such case the State, or a corporation duly organized for that purpose, shall provide the funds necessary for this purpose and shall conduct operations in a manner satisfactory to the Secretary of the Interior.

It may not be in the most effective language, but I will state what the committee purposes by it. If the corporation provides the funds, the State does not have to provide the funds. It seems to me that is clear enough. It is not intended that the States necessarily will have a financial obligation. But we want them to have some moral obligation. We want them to feel that they are tied up with the success of these projects. These States have much at stake in this matter. At a meeting in which the Governor of Montana was present I suggested that the Federal Government has its dollars tied up in these projects, but that the State of Montana has a large part of its agricultural future dependent upon their success. The State of Montana is interested in having a proper safeguard about these appropriations. More than that, there is an illustration of that afforded in that State on the Milk River project, which has three divisions.

One of them is just about a dead one; on the second one there are some signs of life, but the best one of the three is one where the Government has done the least for the people on the project and where they are doing the most, the Chinook division. All we have done is to bring the water to the land. They have built their own laterals, and they owe the money now. They are paying interest on the bonds issued to cover that cost. But notwithstanding that, notwithstanding that the natural advantages of the Chinook division are no better than on the Malta or Glasgow divisions, they are not only paying interest on bonds issued to cover the cost of the construction of their laterals but they have had a corporation formed for the purpose of aiding the settlers on that project.

Mr. LEAVITT. Will the gentleman yield?

Mr. CRAMTON. I am obliged to yield, as I have referred to the gentleman's district.

Mr. LEAVITT. Is it not true that that corporation is formed to finance those settlers without any contract between the State and the Government?

Mr. CRAMTON. Certainly. It was a voluntary move of their own.

Mr. LEAVITT. And should not this be said, that if the constitution of the State of Montana will not allow the State to enter into such a contract, the need could properly be met by a similar corporation on the Sun River project?

Mr. CRAMTON. The only place is the Chinook division, where, as I say, the Federal Government has done the least and the settlers the most.

Mr. LEAVITT. That does not answer the question.

Mr. CRAMTON. Now, the gentleman from Montana feels that the constitution of the State of Montana will not permit them to act under this provision, but I can not agree with him at all. There is no financial obligation required on the part of the State and that was not our intention. It may be that the gentleman from Montana can, in due time, suggest language, if there is any ambiguity in the present one, which will improve the language of the present provision and still accomplish what is important. But what we have sought to do is to tie the State up so that there will be at least a moral interest and that they will be bound to assist in the promotion. However, we are willing to leave the way open so that the local corporation will finance it. I think there is great advantage in the local corporation handling it instead of the State. I am satisfied that on the Kittitas project the corporation is formed in good faith. The people there think it is going to be desirable and it will be administered by business men in a businesslike way, much as a bank would loan money, except that the element of profit will be eliminated and the money will be loaned at a low rate of interest.

Mr. LEAVITT. Will the gentleman yield for a brief question?

Mr. CRAMTON. I yield.

Mr. LEAVITT. Would it not be proper to insert there that such a corporation has been offered on the Sun River project?

Mr. CRAMTON. I am not sure as to whether the form in which that has been offered is effective or not.

Mr. LEAVITT. The form will conform to what is needed.

Mr. CRAMTON. Let us summarize the Montana situation as to Federal irrigation projects. The State of Montana has a pretty big interest in irrigation. The State of Montana has four reclamation projects and five Indian irrigation projects. The Federal construction costs there already have run to over $25,000,000. That is the amount which has already been spent in Montana, and only $670,000 has been repaid. They are delinquent on a large part of the cost of operation and maintenance. There is a tremendous acreage now for which water is available in Montana and on which there are no settlers. The following tabulation demonstrates that Montana has not been neglected in our spending but that a little safeguarding is needed now.

Projects	Construction costs		Operation and maintenance		Amount estimated to complete	Acreage for which water is now available	Acreage for which water is now being used	Unused acreage for which water is available	Complete acreage of project when completed
	Amount spent	Amount repaid	Amount spent	Amount repaid					
Montana:									
Reclamation—									
Huntley	$1,491,719.62	$395,749.75	$903,631.69	$391,865.31	$239,000.00	32,538	19,600	12,938	32,538
Milk River	6,607,540.11	None.	633,766.48	192,549.13	469,000.00	64,800	14,600	[1] 50,200	145,190
Sun River	4,365,794.75	156,520.63	405,310.92	184,780.65	5,000,000.00	57,160	21,530	[2] 35,630	113,840
Lower Yellowstone	3,120,190.34	50,863.32	1,010,369.45	174,638.16	200,000.00	58,000	14,030	[3] 43,970	59,349
Indian—									
Fort Belknap	343,211.76	None.	214,367.16	None.	300,000.00				
Flathead	5,148,320.83	51,935.88	624,813.74	217,038.89	1,968,200.00	113,000	31,748	81,252	124,500
Fort Peck	804,106.55	2,305.53	119,696.08	6,047.68	[4]	22,794	2,156	20,638	152,000
Blackfeet	1,101,642.01	7,915.70	204,121.45	43,568.69	2,266,408.00	21,341	4,048	17,293	107,500
Crow	1,971,333.01	4,228.70	889,671.19	206,804.81	644,710.87	54,992	23,836	31,156	63,228
Total Montana, including Lower Yellowstone	24,953,858.98	669,519.51	5,005,748.16	1,417,293.32	11,087,318.87	424,625	131,548	293,077	798,145

[1] Dry farmed, 9,060. [2] Dry farmed, 42,060. [3] Dry farmed, 18,710. [4] Not estimated.

There are conditions which impressed us as we have come in contact with them that it is time there was some business policy adopted in connection with this matter of reclamation.

The State of Montana, under its former governor, Governor Dixon, in literature that is still distributed, welcomes investors and home settlers, and says to the settler:

To every effort we pledge the assistance of every public agency.

We welcome that assistance.

The gentleman from Montana [Mr. LEAVITT] knows I have discussed this matter on the Sun River project. I discussed it at a very representative gathering when there were present not only Governor Erickson and influential business men from neighboring cities but a pretty good representation of the settlers on that project. He knows that the men present at that meeting were enthusiastically in favor of the safeguards we are trying to put around the future development of that project. However, this should be said, that at that time the question was not an issue as to the old part of the project but only as to the new part.

Mr. LEAVITT. I would like to ask this question, if it is not true that I agreed at the meeting to which the gentleman has referred that there should be proper restrictions?

Mr. CRAMTON. It has been my understanding of the gentleman's position—and I think he fully understands my views; he has heard me make enough speeches on the subject, and I thought I had an understanding of his views. I had the belief that the gentleman from Montana was one who was concerned about the future rather than the immediate present; that he was not so much concerned about the spending of several millions of dollars in his district and in his State as he was in the future success of the project after its construction, and I had supposed he had pretty general sympathy with what we are trying to do. As I have already said, if it should

appear that there is an ambiguity here which can be corrected, and it should be corrected, I think he will find the committee not averse to it.

In my judgment there can be nothing in this that would be in conflict with the State constitution of Montana because that has to do with a financial obligation being entered into by the State, and we do not contemplate the necessity of such a thing. If a corporation is being worked out in Great Falls and is one that will be sufficient I am sure the project would go forward.

Mr. LEAVITT. I want to make it plain that I have not changed my viewpoint in any way as to the need of safeguarding future development, but I want to ask this question, as to whether or not, if it is developed that there is a doubt about the authority of the governor, or any other official of the State of Montana at this time—and without the action of the legislature, which does not meet for a year or so—to enter into the contract required, and a corporation of the kind that will be satisfactory to the Department of the Interior can be formed, that will be sufficient.

Mr. CRAMTON. I will say this, without going into those details too much, that what is necessary to be done to insure the success of these projects in the future, I think, ought to be done even if it should involve a few months of delay. In view of the fact that the State of Montana has many, many thousand acres of land open to settlement on private and public projects no great harm can come if gentlemen are willing to look, as I have assumed the gentleman from Montana is willing, to the final result.

I do not want to go further into the question of what the authority of the governor just now is, but if he lacks the necessary authority the State legislature ought to give it to him, and I think the people of the State of Montana would approve that.

Mr. SINNOTT. I understand the gentleman is anxious for suggestions——

Mr. CRAMTON. I do not know that I have gone that strong, I will say to the gentleman. [Laughter.]

Mr. SINNOTT. And I also understand the gentleman's position to be that it is not his idea the State will advance the funds.

Mr. CRAMTON. It is not my idea the State should be required to. I feel this way——

Mr. SINNOTT. Just in that connection——

Mr. CRAMTON. If the gentleman will pardon me, I feel this is a great business proposition. It is not a thing that can be worked out here by 435 men year after year on the floor of the House. I believe the administrative authorities of the Government ought to be given discretion. I do not believe we should pass legislation that ties them hand and foot. We ought to pass legislation that confers discretion upon them, and then we ought to expect to have men in these positions of sufficient capacity to exercise a wise discretion, and so this provision gives discretion for a contract with the governor by which the State assumes the responsibility or by which a local corporation will assume the financial responsibility.

Mr. SINNOTT. I refer to the language on page 68 and will ask the gentleman if he thinks that language is clear enough to carry out the gentleman's idea?

Mr. CRAMTON. I wonder if the gentleman will not permit me to take that up a little later. I have already expressed my opinion of it.

Mr. SINNOTT. There is the language, "a contract or contracts shall have been executed between the United States and the State or States," and then skipping down to line 6 on page 68, "whereby such State or States shall assume the duty and responsibility of promoting the development and settlement of the projects," and so forth, and leaving out the intervening language, "and financing." It seems to me the State there assumes the duty and the responsibility of financing the settler.

Mr. CRAMTON. I am glad to have the opinion of the gentleman, but the intention is, and I think it is accomplished when we say that "in each such case"—that is what is above referred—"the State or a corporation duly organized for that purpose shall provide the funds necessary for the purpose and shall conduct operations in a manner satisfactory to the Secretary of the Interior."

Mr. SINNOTT. I assume the gentleman is willing to give further consideration later on to clearing up that ambiguity.

Mr. CRAMTON. The gentleman knows I am always willing to give due consideration.

The annual report of the Commissioner of Reclamation emphasized the need of safeguards for the future of these new projects.

The most difficult and exacting duty during the fiscal year of 1925 has been the consideration of requests of water users on Federal irrigation projects for deferment of payments due the Government, according to that report.

Thousands of these requests were received. Many were entitled to sympathetic consideration and received it. The deferments amounted in the aggregate to a large sum. The commissioner states, however, that there were other requests to approve which would abuse the Government's generosity. Requests from irrigators amply able to pay, from nonresident landowners whose farms are cultivated by tenants, and from those who openly oppose all payments to the Government, had to be refused; otherwise Federal reclamation should and would cease.

During the last five years there has been a progressive decrease in payments made on certain projects. Delinquencies for that period amount to the staggering total of $8,500,000. Arrears in payments for 1924 alone amounted to more than $3,000,000.

The commissioner points out that the theory of Federal reclamation is that it shall be self-supporting. The money spent to build irrigation works is to be returned to the Government. Water users are to pay all the costs of operation. This theory is not only sound but it is the only one under which the policy of Federal reclamation can be a fact. It has, however, encountered obstacles that do not pertain to private enterprises and which have been increased by the general agricultural depression of the past six years.

Seven projects are a source of confidence and satisfaction, having paid more than 85 per cent of charges and assessments. Seventeen have paid more than half. The payments of the remainder are so inadequate and the morale of settlers on some is so low that measures to check this downward course toward insolvency are imperative.

Insistence on payments has led to the collection this year of hundreds of thousands of dollars that otherwise would not have been paid. Instead of discouraging the water users it has increased their confidence and has had a great influence in maintaining the morale of the administration of the bureau.

Lands irrigated from Federal reclamation works in 1924 produced crops worth nearly $110,000,000, an increase of $7,000,000 over the previous year. On the projects proper 1,216,610 acres were cropped, the gross value of all crops being $66,488,560, or $54.65 per acre. Water was also supplied under Warren Act contracts to 889,640 acres, which produced crops having a gross value of $43,237,470, or $49.28 per acre.

There have been many cases where we have given extensions of time for payments on these projects. The agricultural depression of the last few years was the occasion for some real necessity, but it has been my observation as I have visited these projects that one of the worst things we have done for them has been to have a belief grow up on the project that we would keep on extending and extending and finally wipe a great deal off the slate. I know of many cases where men wanted to pay their charges, but their neighbors dissuaded them, on the ground that it would make a bad precedent for the project.

Finally, the report of the fact finders and the board of adjustment came in here yesterday, and it recommends that out of about $155,000,000 owing to the Government—not due, but owing—$37,000,000 shall be wiped off the slate.

Why, if we could by passing that act actually put an end to this idea of wiping off the slate and giving extensions, it might be a good investment; but my judgment is that if this Congress passes that act for the destruction of $37,000,000 that belongs to the reclamation fund, it will only be one more invitation in our statute books to further reductions and further extensions. What is needed in the West on these projects to-day, when agriculture is reviving, when conditions are improving—what is needed more than anything else is to have it understood that the Government means business. A majority of the water users have the intention of dealing fairly with the Government and of paying their obligations. In many cases a large number of them are deterred by the campaign that goes on among them by others.

Mr. HUDSPETH. Will the gentleman yield for just a short question?

Mr. CRAMTON. I yield to the gentleman.

Mr. HUDSPETH. The gentleman does not believe, however, that eventually we will have to mark off this $37,000,000?

Mr. CRAMTON. My own observation, I would not venture to say, was better than that of this board.

Mr. HUDSPETH. What is the gentleman's idea about that?

Mr. CRAMTON. The board was a sort of ex parte affair. They went out for the purpose of finding what should be marked off. They gave more or less encouragement to districts to bring in their claim where districts had not had it in

mind to make much of a claim. In my judgment there are only two or three projects—and I think this is creditable to reclamation, and I think this is a statement friendly to reclamation—of all the projects now in operation, there are only two or three where there is any necessity for any change whatever.

Mr. HUDSPETH. I agree with the gentleman.

Mr. LEAVITT. Will the gentleman yield for a question?

Mr. CRAMTON. Yes.

Mr. LEAVITT. Has the gentleman read the report of this commission that was sent out?

Mr. CRAMTON. I saw the statement that came in here yesterday, but I have not had time to read all of it.

Mr. LEAVITT. Then the gentleman is making his statement in advance of reading what they have given as arguments regarding this matter?

Mr. CRAMTON. Oh, yes; but I know on a project in the gentleman's State the people most influential on the project said they were not concerned about what was going to be wiped off, but that when this committee came on the project they rather gave them some encouragement to think up something, and I think that is going to be disastrous.

Mr. LEAVITT. Was not this commission authorized by the Sixty-eighth Congress and sent out for this purpose, with the understanding that the matter must be acted on by Congress before it became effective?

Mr. CRAMTON. I do not know anything about any such understanding. I was not a party to it, and I do not know that Congress was.

Mr. SIMMONS. Will the gentleman yield?

Mr. CRAMTON. I have only one minute, and I can not yield. I am sorry.

The Department of the Interior under Secretary Work has gone into this matter with a great deal of interest and a great deal of thoroughness since he has been in office. Personally, I have not agreed with his program at all times. I have felt the appointment of the fact finders commission was simply a wholesale invitation to trouble and was a mistake, and, of course, the adjustment board simply continued that same program and was a mistake; but the campaign that the Secretary of the Interior has been carrying on of trying to instill into the people on these projects the idea that reclamation is a business policy and that they must do business with the Government in a businesslike way, in the long run will prove the salvation of reclamation in this country. All that this committee has done in this bill or in the bill of a year ago has been to cooperate with the administrative officials of the Government in their attempt to bring about a business reform in this particular part of the Government's business. I thank you. [Applause.]

The CHAIRMAN. General debate is closed and the Clerk will read.

The Clerk proceeded with the reading of the bill, and read to the bottom of page 4.

Mr. BEGG. Mr. Chairman, I move to strike out the last word. On page 3, line 17, is the provision—

not exceeding $500 shall be available for the payment of damages caused to private property by department motor vehicles.

That would not pay the damages perhaps for one accident. My reason for calling this up is because of the experience we have all had on private bills. I think the responsibility of the Government for damage done to private property by any Government-operated vehicle ought to be the same as the responsibility of a private individual. Why do you want to limit it to $500 for the total? It seems to me you might as well strike it out or limit it to $500 for any one accident.

Mr. CRAMTON. The fund is not intended to take care of any large claim. This provision is designed to take care of small claims which might amount to $10 or $50. As to the wisdom of giving the department authority to settle large claims without any action of Congress, that is a matter I am in some doubt about, and I question whether the House would consent to placing any large appropriation in their hands for that purpose, and the authority would not be good for anything without an appropriation.

Mr. BEGG. I think the gentleman and I are in entire accord as to these claims. But it struck me when I read the bill that $500 would be a small amount to pay for claims that might arise in the 365 days of the year. If the gentleman would say that claims could be settled up to $500, it would be a wise provision and Congress would be relieved of a lot of unnecessary work.

Mr. CRAMTON. I think we would have to increase the amount of appropriation. There has been no such suggestion made by the department, and I do not know how many such claims there are.

Mr. BEGG. I am not going to offer any amendment.

Mr. CRAMTON. It is apparent that under this appropriation only trivial accidents could be taken care of, while others will have to go through the Claims Committee. The appropriation would have to be increased if we made provision to take care of any large accidents.

Mr. BEGG. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Reproducing plats of surveys: To enable the Commissioner of the General Land Office to continue to reproduce worn and defaced official plats of surveys on file and other plats constituting a part of the records of said office, to furnish local land offices with the same, and for reproducing by photolithography original plats of surveys prepared in public survey offices, $7,000.

Mr. BEGG. Mr. Chairman, I move to strike out the last word. On page 9 it appears that the salary of the surveyor general has been increased from $6,000 to $7,000.

Mr. CRAMTON. That is not a salary item at all.

Mr. BEGG. Well, for expenses.

Mr. CRAMTON. That is for reproducing certain worn-out plats. They were given $5,000 a year for several years, and last year we gave them $6,000, and now we give them $7,000 because they have such a large number of them that are in need of attention. The public use of them is interfered with, and the records themselves are in danger by reason of their condition, so that we gave them the larger amount this year.

Mr. BEGG. I withdraw the pro forma amendment.

The Clerk read as follows:

Registers: For salaries and commissions of registers of district land offices, at not exceeding $3,000 per annum each, $110,000.

Mr. EDWARDS. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS: Page 12, line 14, after the period on line 14, page 12, insert "The Secretary of the Interior shall ascertain and make record of all land owned by the Government and keep records of same in the General Land Office in the Department of the Interior."

Mr. CRAMTON. I reserve a point of order, Mr. Chairman.

Mr. EDWARDS. Mr. Chairman, the purpose of this amendment is this: In the various branches of the Government there are lands that have been used for the service and are no longer needed. It is to get a record of those lands so that you can easily ascertain what lands are owned by the Government. For instance, in the Lighthouse Service there are a number of pieces of land that have been abandoned, as no longer needed. There are some in the War Department, and when you come to check up as to what the Government owns throughout the breadth of the country it is difficult to find out where they are and what they consist of. It is difficult to find out what department a certain piece of land that the Government owns is under.

My idea is that there ought to be some definite, certain place at which and through which information can be at any time easily obtained as to what lands the Government actually owns. I think the Interior Department would be the place to keep the record. I hope the gentleman will not insist upon his point of order, because I am afraid it is subject to the point of order. If this provision is not put in the bill, I hope that some other provision now or later will be written into the law whereby we can keep up with the land that the Government owns.

Digressing from the amendment and for the purpose of pointing out what to my mind is a glaring wrong and injustice, I want to discuss this bill a few minutes. This bill carries appropriations of over $200,000,000. I do not wish to discuss all the items, but a few of them. Under the heading "Bureau of Reclamation" there is appropriated in this bill from the "reclamation fund" the sum of $7,706,000, for reclamation, which is a scheme, as we all know, to put water on arid or semiarid lands in the western section of our country, and not a dime is carried for drainage. The obligation is just as strong on our Government to become committed to a policy of drainage as to irrigation. There is no more reason why the Government should put water on land to make it produce than to take water off of land to make it productive. Some might say that the question of drainage is local to the South. This is not the case. There is hardly a section of this great country in which drainage is not needed. There are millions

of acres of good land scattered all over this country that could be reclaimed and added to the wealth and producing power of this country if we would be broad enough to extend this reclamation policy to drainage. Many of our friends are frightened when we undertake to make the word "reclamation" mean to reclaim, whether by irrigation or drainage. I have no special fight on any of these numerous projects, for I take it they are all meritorious. The point I am raising is that those who have profited by the Government's aid in irrigation have never proven themselves willing to join in a movement for drainage—for reclamation in the broad and proper sense. I have made up my mind never to vote a nickel to irrigation and reclamation projects until justice is done by the sections that are being denied help in drainage of low and wet lands.

The drainage of the low and swamp lands will not only improve the lands, but will improve the health and will improve conditions for roads. With a comprehensive drainage policy, highways can be built in those sections and more than one good purpose served by the aid.

The first item in this bill under the head of "reclamation fund" is an appropriation of $30,000 for rubber boots. That would look more like an item for drainage than irrigation. At any rate it indicates they are going to wade into something. These lands are good providing the Government puts water on them, and I presume worthless without it; and no good unless "Uncle Samuel" continues to put water on them. In the case of lands to be drained, the seasons are good and after they are drained the seasons will keep them watered by natural rainfall.

I have introduced a bill asking for the appropriation of a million dollars for the purpose of investigating conditions as to the exact area needing drainage and calling for reports as to estimated cost and committing the Government to the policy of helping in drainage just the same as it helps in irrigation. It is all reclamation work. In the one case we reclaim by irrigation and in the other we reclaim by drainage, and in it there is just the same moral and governmental obligation that drainage as well as irrigation should be done and carried on by the Government. One should be treated just as fairly as the other. But, to my mind, it has always been a puzzle why western Representatives and Senators have been willing to take all that can be gotten from the National Government for their projects—for irrigation works in the West—and have not been willing to help other sections get their due in drainage. It has also been a puzzle to my mind why Representatives and Senators from States and sections needing drainage so badly, handicapped and retarded for the lack of it, should continue to trail along and support every irrigation ditch, buy rubber boots and the like, running into the many millions each year, for these big western irrigation projects, when we can never get any help from the West on our drainage movement, which to the country as a whole in acres and economics is vastly more important and more worth while than the irrigation schemes. We are going to get some recognition on the drainage movement, and the department and the Congress are going to construe "reclamation" to include drainage before I ever support an appropriation that provides for irrigation.

Mr. CRAMTON. Mr. Chairman, the provision is subject to at least two points of order. One is that it is not germane to the part of the bill that we are now considering, and the second is that it is legislation. It would involve an uncertain amount of expense, which is not carried in the bill, and there might be a question as to the proper place to lodge such authority, if it were desirable to have it, all of which is legislation and has nothing to do with the bill. I am obliged to make the point of order.

The CHAIRMAN. The Chair sustains the point of order on two grounds. In the first place, it is not germane. The portion of the bill which we are now considering pertains to Indian affairs and Indian lands. The amendment of the gentleman from Georgia [Mr. EDWARDS] is general, pertaining to all lands. The second ground is that it is legislation and does not belong in the bill. The point of order is sustained.

The Clerk read as follows:

For payment of salaries of employees and other expenses of advertising and sale in connection with the further sales of unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, including the advertising and sale of the land within the segregated coal and asphalt area of the Choctaw and Chickasaw Nations, or of the surface thereof, as provided for in the act approved February 22, 1921, entitled "An act authorizing the Secretary of the Interior to offer for sale remainder of the coal and asphalt deposits in segregated mineral land in the Choctaw and Chickasaw Nations, State of Oklahoma" (41 Stat. L. p. 1107), and of the improvements thereon, which is hereby expressly authorized, and for other work necessary to a final settlement of the affairs of the Five Civilized Tribes, $6,500, to be paid from the proceeds of sales of such tribal lands and property: *Provided*, That not to exceed $2,000 of such amount may be used in connection with the collection of rents of unallotted lands and tribal buildings: *Provided further*, That the Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe: *Provided further*, That for the current fiscal year money may be so expended from such tribal funds for equalization of allotments, per capita, and other payments authorized by law to individual members of the respective tribes, tribal and other Indian schools under existing law, salaries and contingent expenses of the governor of the Chickasaw Nation and chief of the Choctaw Nation and one mining trustee for the Choctaw and Chickasaw Nations at salaries at the rate heretofore paid and the chief of the Creek Nation at a salary not to exceed $600 per annum, and one attorney each for the Choctaw and Chickasaw Tribes employed under contract approved by the President under existing law: *Provided further*, That the expenses of any of the above-named officials shall not exceed $1,500 per annum each for chiefs and governor except in the case of tribal attorneys, whose expenses shall be determined and limited by the Commissioner of Indian Affairs, not to exceed $2,000: *And provided further*, That the Secretary of the Interior is hereby empowered, during the fiscal year ending June 30, 1927, to expend funds of the Choctaw, Chickasaw, Creek, and Seminole Nations available for school purposes under existing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes.

Mr. CARTER of Oklahoma. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 19, line 15, strike out "$1,500" and insert "$2,500."

Mr. CRAMTON. Mr. Chairman, the amendment is presented as the result of an investigation by my colleague, and I accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The amendment was agreed to.

Mr. CARTER of Oklahoma. Mr. Chairman, I offer the further amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 19, line 18, strike out the figures "$2,000" and insert in lieu thereof the figures "$4,000."

Mr. BEGG. Mr. Chairman, why is it going to take that much? That is twice as much as you had last year.

Mr. CARTER of Oklahoma. That is the expense for the attorneys of the tribe.

Mr. BEGG. Has the cost of traveling for attorneys increased 100 per cent?

Mr. CARTER of Oklahoma. Yes. The cost has increased on account of certain suits. They have certain suits in contemplation of being brought. If the gentleman will recall, we authorized the Choctaw and Chickasaw Tribes—in fact, all of the Five Civilized Tribes—to bring suit in the Court of Claims against the Federal Government. Certain data has to be secured and gathered before those suits can be brought intelligently, and the chief of the tribe and the attorneys thought it was the duty of the tribe to present that to the attorneys who are to try the case in order that they might say to the attorneys just what suits shall be brought, and in addition to that we still have what is known as the McMurray case, in which extensive briefs have had to be filed by the attorneys for the tribe, costing, I think, something like $1,000. That involves the $2,000 in addition.

Mr. BEGG. How does the gentleman get the idea that if this is increased to $4,000, it can be expended for the traveling expenses of attorneys in looking up old suits like the McMurray suit? The language specifically restricts the use of this money to the collection of rents. I do not see how the gentleman can use it if he gets the money.

Mr. HASTINGS. Mr. Chairman, I think the gentleman from Ohio confuses the language. This provision does not limit it to the collection of rents.

Mr. BEGG. I may be entirely in error as to what is sought to be done, but I certainly understood the reading of the amendment by the Clerk to provide that, on page 18, line 19, we should strike out "$2,000" and insert "$4,000."

Mr. HASTINGS. It is on page 19, which refers to the expenses of tribal attorneys.

Mr. BEGG. Then I have nothing more to say.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

INDUSTRIAL ASSISTANCE AND ADVANCEMENT

For the purposes of preserving living and growing timber on Indian reservations and allotments, and to educate Indians in the proper care of forests; for the employment of suitable persons as matrons to teach Indian women and girls housekeeping and other household duties, for necessary traveling expenses of such matrons, and for furnishing necessary equipments and supplies and renting quarters for them where necessary; for the conducting of experiments on Indian school or agency farms designed to test the possibilities of soil and climate in the cultivation of trees, grains, vegetables, cotton, and fruits, and for the employment of practical farmers and stockmen, in addition to the agency and school farmers now employed; for necessary traveling expenses of such farmers and stockmen and for furnishing necessary equipment and supplies for them; and for superintending and directing farming and stock raising among Indians, $402,000: *Provided*, That the foregoing shall not, as to timber, apply to the Menominee Indian Reservation in Wisconsin: *Provided further*, That not to exceed $20,000 of the amount herein appropriated may be used to conduct experiments on Indian school or agency farms to test the possibilities of soil and climate in the cultivation of trees, cotton, grain, vegetables, and fruits: *Provided also*, That the amounts paid to matrons, foresters, farmers, physicians, nurses, and other hospital employees, and stockmen provided for in this act shall not be included within the limitations on salaries and compensation of employees contained in the act of August 24, 1912.

Mr. ARENTZ. Mr. Chairman, I move to strike out the last word. During the past summer the gentleman from Michigan [Mr. CRAMTON] and others forming a committee traveled throughout the West investigating Indian schools, and so forth. In this paragraph it will be noted that the Indian girls are supposed to learn something about housework, including ironing, the baking of bread, the sweeping of rooms, and the making of beds, and so forth, all those things which will fit those Indian girls for work in private homes when they graduate from the school, and assist them to improve the living conditions of their parents and others in their camp or the Indian neighbors or relatives living in their vicinity. It will be interesting for this House to know that at these Indian schools to-day this is not done to the extent that it should be; that not enough stress is made upon this phase of their education because of the efficient manner in which the daily routine of these institutions is carried on. In the several departments of the Indian school are to be found bread-mixing machines, which will mix possibly 500 loaves of bread in a night; ironing machines; automatic dishwashers and everything of that sort which would tend to do just the opposite thing most required by the Indian girl to make her of the greatest service when she leaves the care of such splendid schools as the Carson Indian School in Nevada, supervised by the conscientious personnel of Mr. Snyder and his coworkers. The gentleman from Michigan [Mr. CRAMTON], the chairman of the subcommittee of the Committee on Appropriations having the bill in charge, has examined this school and knows of these things I speak. I want to say here that the Carson Indian School is one of the beauty spots of our State. Mr. Snyder has put a great deal of love in his work, and a spirit of loyalty permeates his entire staff. The improvements made are of a permanent nature and possess great beauty. During the summer the grounds surrounding the main buildings are beautified by landscape gardening and a great variety of flowers. This school is, indeed, one of the show places of our State.

Mr. CRAMTON. The per capita cost of maintenance of pupils in these Indian boarding schools is from $225 to $250 a year, including board and medical attendance and instruction and clothing, and that is made possible only by reason of the fact that the pupils, both boys and girls, do a great deal of work; the boys in connection with construction, where in some cases a whole building will be erected at no expense to the Government outside the cost of the material and a very low supervision cost.

I did not make a careful investigation of the point that the gentleman from Nevada [Mr. ARENTZ] speaks of, but I remember that in one case 20,000 gallons of fruit and pickles was put up at no expense to the Government, the work being done by the girls in the school under the supervision of two women employees.

I simply want to emphasize the fact that a great deal of the work is done by the girls in sewing and canning fruit, and so forth. Now, whether it is desirable to have them do all the work, whether they must wash all the dishes and always bake the bread for a school of a thousand pupils each day, I am not sure that we should insist that the bureau go that far. The girl pupils are taught to make bread in the domestic-science school, and they are taught to sew in the domestic-science school.

Mr. ARENTZ. This is simply in line with the other things that the Indian Department is doing, but it is but a half promise, and I would like to see it carry this work further to the end that the students graduating from these schools may be well trained, efficient, and capable. The reclamation work on most of the Indian reservations in Nevada is but half finished. More funds are required to complete them, so that the Indian's land brought under cultivation may be first class in fact. The Indians should be better taken care of in respect to their reclamation works. In Nevada the ones I have observed have been allowed to fall to decay for lack of funds and the necessary engineering works never constructed.

Mr. BUTLER. They can train themselves to wash dishes by hand.

Mr. LEAVITT. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from Montana moves to strike out the last two words.

Mr. LEAVITT. Mr. Chairman, I was with the committee about which the gentleman from Nevada [Mr. ARENTZ] speaks, and I made inquiries at several of these schools on Indian reservations in regard to the presence of bread-making machines and well-equipped laundries. It occurred to me also that perhaps not enough attention was being given to the training of the girls in the art of making bread and doing the housework. I was told at every one of these schools that this machinery was required in order to make enough bread and in order to take care of the amount of laundry required to provide for the pupils. But I was told that, in addition, the personal training of these girls was being carried on in order that they might be taught how to take their places in their own homes or in other homes. I can not say how fully that is being carried out, but I do know that in talking to the matrons at at least two or three Indian schools I was given that assurance, because this same question had arisen in my mind.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For reimbursing Indians for livestock which may be hereafter destroyed on account of being infected with dourine or other contagious diseases, and for expenses in connection with the work of eradicating and preventing such diseases, to be expended under such rules and regulations as the Secretary of the Interior may prescribe, $8,000.

Mr. BANKHEAD. Mr. Chairman, I reserve a point of order on that paragraph for the purpose mainly of acquiring a little information. It seems to me it is a rather unusual proposition to provide here on an appropriation bill for reimbursing Indians for livestock which may be hereafter destroyed on account of being infected with dourine or other contagious diseases. I would like to ask the chairman of the subcommittee in charge of this bill if the appropriations in these paragraphs are authorized by existing law?

Mr. CRAMTON. The gentleman must be misled by the word "hereafter." It is not a legislative hereafter. It simply provides that this appropriation is available for reimbursing Indians for livestock hereafter destroyed. It does not apply to old cases that heretofore have accrued. It is my judgment that this is authorized by law. The Snyder Act gives the Bureau of Indian Affairs pretty wide authority in connection with the benefit and assistance to Indians in different ways, and especially in the way of "industrial assistance and advancement and general administration of Indian property." All that this does is in connection with the effort to eradicate dourine and other contagious diseases from livestock among the Indians, and the purpose is the same purpose as that in view when we seek to eradicate those diseases from other stock, and also in the case of eradicating tuberculosis from other stock. It is in order to advance the well-being of the livestock.

Mr. BANKHEAD. I will say frankly to the gentleman that my interest in the matter was aroused by the peculiar phraseology you use here, because an ordinary reading of the language would indicate that you are providing for contagious diseases that might arise hereafter. If that interpretation is correct, I think the gentleman will agree with me that that is a somewhat unusual procedure.

Mr. CRAMTON. No. Perhaps the gentleman has not the right understanding of what the word "hereafter" means in this connection.

This is an item that has been carried at least since 1917. In 1917 it was $100,000; in 1918, $75,000; then it ran along at

$50,000, $40,000, $20,000, and so on down to the current year, when it was $10,000. It is now reduced to $8,000, so it is a vanishing proposition. I suppose in the beginning they wanted to be sure the money was only going to be used for any future trouble that might develop and not to pay up a lot of ancient claims. This is a matter which the gentleman from Oklahoma [Mr. CARTER] can probably better explain than myself.

Mr. CARTER of Oklahoma. My recollection is that when this appropriation first went in this disease was raging over the country and had got among the Indians' stock and was affecting the white men's stock, so that it was a nuisance to everybody. My recollection is that the appropriation went in first as a deficiency appropriation, which probably accounts for the peculiar language used. My recollection is that the appropriation carried the words "heretofore" and "hereafter." Then, afterwards, as the gentleman from Michigan [Mr. CRAMTON] has suggested, it was continued and has been used, but the amount has been reduced each year. Now, I call attention to the fact, with reference to the provision being within the rules, that the last paragraph of the Snyder Act contains this language:

And for general or incidental expenses in connection with the administration of Indian affairs.

Which is very broad language and seems to me would include this provision.

Mr. BANKHEAD. I do not want to press the objection. I was mainly rising for the purpose of securing some information; and if the chairman of the subcommittee is convinced it is authorized by law and is a necessary appropriation, I withdraw the reservation.

Mr. CRAMTON. I will say to the gentleman from Alabama that what we seek is that it be used to pay for stock destroyed during the fiscal year 1927. That is what we have in mind.

Mr. HUDSON. Mr. Chairman, I move to strike out the last word. I notice that while there is a decrease in the item just referred to there is quite a large increase, of something like $17,000 or $20,000, for industrial assistance to the Indians. Just why should there need be an increase there?

Mr. CRAMTON. Of course, the two items have no real connection. The one we have just had up is for the destruction of livestock suffering from this particular disease, and we hope that emergency will some time pass. The item just before it, to which the gentleman refers, is an item for industrial assistance to the Indians for advances. It makes it possible for the Indian Bureau to advance money to the Indians to be used in the purchase of seeds, animals, machinery, tools, implements, and so on. They pay the money back, and it is a very encouraging proposition, that out of several million dollars heretofore advanced in that way some 75 or 80 per cent has been repaid. It is one of the most beneficial items in the bill, so that the policy of this committee has been to gradually increase the amount, and there is abundant need for its use. Out of $4,462,000 that has been advanced, $3,310,000 has actually been repaid. Now, we have put a little heavier burden on this paragraph. The last proviso of the paragraph permits the use of the money to assist Indians to take advantage of the irrigation of their lands. We have spent millions in providing irrigation projects and they have available lands that are fertile, but especially on the northern reservations they are not using that water. Our idea here is that where an Indian has some interest and needs assistance we will help him get his land in shape through the use of this appropriation.

Mr. HUDSON. Then, as I understand, this is a revolving fund?

Mr. CRAMTON. It is not a revolving fund——

Mr. HUDSON. But the gentleman says it is reimbursed.

Mr. CRAMTON. It goes back into the Treasury. They can only use such amount as we appropriate, and then it is repaid to the Treasury.

Mr. HUDSON. It is an appropriation from the general funds of the Government for the Indians, irrespective of their own financial condition; and if it is a fund which is reimbursed it is a revolving fund.

Mr. CRAMTON. This money goes to the Indians, and it is repaid by them. However, they do not repay it the same year; but it is money loaned to the Indians to be used in this way. And, as a matter of fact, as I have shown, they do repay it.

Mr. LEAVITT. If the gentleman will yield, is it not true that this is the part of the bill which makes it possible to carry on all such constructive programs as the five-year agricultural program among the Blackfeet Indians and others who require the purchase of livestock, feed, and so on, in order to start them?

Mr. CRAMTON. Yes; and it is very urgent. I want to call the attention of the gentleman to the fact that this was urged upon us by some of the agency superintendents, and that the use of this money in this way may greatly aid in having the Indians use lands now under irrigation.

Mr. LEAVITT. To my mind, this is the most important and valuable clause in the bill, so far as the Indians are concerned.

The pro forma amendment was withdrawn.

The Clerk read as follows:

Irrigation district 2: Walker River Reservation, Nev., $4,500; Western Shoshone Reservation, Idaho and Nev., $1,500; Shivwits, Utah, $300.

Mr. ARENTZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will state that there has been no ruling or agreement as to the units after which amendments shall be offered, but the usual procedure will be followed of offering amendments or making motions to strike out at the close of respective paragraphs, and the Chair will so hold unless there is objection.

There was no objection.

The CHAIRMAN. The gentleman from Nevada offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. ARENTZ: On page 25, line 6, strike out the figures "$4,500" and insert "$10,000, $5,500 of which is to be used for the investigation of a dam site to increase the efficiency of the existing reclamation works."

Mr. ARENTZ. Mr. Chairman, in 1859 a certain filing was made on the Walker River for waters to irrigate lands which would be included in a reservation for the Paiute Indians located at the head of Walker Lake and mouth or lower stretches of the Walker River. The total amount of tillable land on the Walker River Reservation at the present time is approximately 10,000 acres, according to report of the committee which has this bill under consideration. There is actually, according to best authority, water filings to supply the needs of a maximum of 5,900 acres. According to the report of this committee there is now under cultivation through irrigation by waters of the Walker River 2,600 acres. There is actually but 1,600 acres cultivated.

In the year 1923 the amount of snow on the high Sierras was insufficient to supply the needs of the ordinary run-off on the Walker River. The water, such as did run off during the short period of flood time, lasted but a short time, so that during the irrigating season, which begins about the 1st of April and continues until the 15th of September, there was insufficient water to meet the needs of the white settlers comprising about 125,000 acres, and an insufficient amount in the river to reach the intake of the Walker River Indian land headgates or ditches.

At that time, because of this water shortage, which all settlers—white and Indian—experienced, a complaint was made to the Indian Bureau that the white settlers were taking all the water, when, in fact, the water did not exist in the river. The result of this low water or lack of water resulted in a very low production of alfalfa hay on the reservation. A suit was brought against the Walker River irrigation district by the Commissioner of Indian Affairs through the attorneys of the Interior Department and the Department of Justice.

Last summer this suit reached the point where a stipulation was demanded by the Federal attorney, Mr. Springmyer. Since that time this stipulation has been held in abeyance because it was impossible to get hundreds of water users on the Walker River together so that the attorneys could reach some agreement among themselves and have authority to act.

Since coming to Washington I have taken this matter up with the Commissioner of Indian Affairs, with the Secretary of the Interior, with the several legal bureaus of the Interior Department, with Mr. Dyer, who handles the water cases for the Department of Justice, with Mr. Parmenter, the Assistant Attorney General, who handles these cases, and with the Attorney General himself; and three weeks ago it was agreed between the attorneys for the Walker River irrigation district and the attorneys representing the Department of Justice that the stipulation would be held up and that a conference would be held in Washington, and it gives me great pleasure to say that the Indian Bureau has in all respects and in all regards cooperated to the fullest extent with me in trying to bring about a conference, with the result that on the 18th to the 21st of January a conference between the water users' attorneys will be held in the Secretary of the Interior's office or in the Attorney General's office. Present at this conference will be the Secretary of the Interior, the Com-

missioner of Indian Affairs, the Assistant Attorney General, Mr. Parmenter, and the Attorney General himself, with the result that instead of a long-drawn-out lawsuit costing probably $75,000 or $80,000 we will have——

The CHAIRMAN. The time of the gentleman from Nevada has expired.

Mr. ARENTZ. Mr. Chairman, I ask unanimous consent that I may continue for five minutes more.

The CHAIRMAN. Is there objection?

Mr. CRAMTON. Mr. Chairman, reserving the right to object, which I do not intend to do, the gentleman thinks he can complete his statement in that time?

Mr. ARENTZ. Yes; I will not ask for any further time.

There was no objection.

Mr. ARENTZ. We hope to bring about by this conference a settlement of this question which is harassing both to the Commissioner of Indian Affairs and to the settlers on the Walker River.

In presenting this to the Attorney General and to the Secretary of the Interior it was necessary to go into the history of the Indian lands on the Walker River Reservation, the amount of tillable land on this reservation, the amount of land now under cultivation, the amount of land under cultivation on the Walker River outside of the Indian reservation, the amount of water obtainable for those lands previous to water storage, and the amount of water now available since the voting of $980,000 worth of bonds for the completion of two reservoirs, comprising a total of 90,000 acre-feet.

The thing which I wish to bring to the attention of the chairman of this committee is the fact that if all the water that has been filed on by the Government for these Inidans on the Walker River was allowed to pass through the white settlers' land and go to Schurz, which is the point where the Indians are located, it would not be more than sufficient to allow a small trickling stream to go into the canals of the Indians during the months of August and September, when the water is most needed. The thing that we will ultimately have to do, regardless of whether the suit is settled here in Washington or is settled according to the decision in the Winter case in Montana, will be the construction of a diversion dam on the Walker River near the point of divergence of the Walker River waters for the Indian lands; and I am introducing this amendment with the idea of bringing to the attention of the chairman of the committee the necessity of such a diversion dam; and to-day I would like to see this amendment adopted, but if that is not possible I would like to see the chairman of this committee give the matter the attention it deserves.

Mr. CRAMTON. Mr. Chairman, the hearing before our committee sustains the idea that these Indians do need more water. The hearing sets forth some of their disasters of last year. Mr. Reed, in his statement before our committee, said, "We are badly mixed up with the State of Nevada on water rights," and refers to the suit pending, and says that the Indians will not get a satisfactory water supply until the lawsuit is settled; and, of course, the progress the gentleman from Nevada refers to would be very desirable.

The amendment of the gentleman from Nevada provides for $5,500 to be used for investigation purposes, solely, in connection with a desired additional supply through the erection of a dam.

The matter of the survey investigation in connection with the dam would seem not to be desirable to make an appropriation at this time, not until we can go over the matter with the Indian Office and have a thorough consideration of it. It is very possible that when we get to this point the top-heavy service in Washington, which my friend has criticized, might be able to take care of the investigation without a new appropriation for it.

Mr. ARENTZ. I have the highest regard for the Indian Department and those persons associated with it. They are doing much good among the Indians, and I think it would be a wonderful thing if Mr. Reed, who has only been once on the Walker River, would go there and look into this situation of the Indians.

Mr. CRAMTON. It would not seem to be necessary to have an amendment——

Mr. ARENTZ. Mr. Chairman, as long as I have succeeded in getting the attention of the chairman drawn to this, I will withdraw my amendment.

The CHAIRMAN. The amendment is withdrawn, and the Clerk will read.

The Clerk read as follows:

For construction of the Coolidge Dam across the canyon of the Gila River near San Carlos, Ariz., as authorized by the act of June 7, 1924 (43 Stat. L., pp. 475, 476), and under the terms and conditions of, and reimbursable as provided in, said act, the unexpended balance of the appropriation for this purpose for the fiscal year 1926 is reappropriated and made available for the fiscal year 1927: *Provided*, That no part of the money herein reappropriated shall be available in the fiscal years 1926 or 1927 for relocation of the railroad right of way.

Mr. CRAMTON. Mr. Chairman, I think I should make a statement in regard to this before any amendment is offered. Congress authorized the construction of the Coolidge Dam in connection with the San Carlos Reservoir in Arizona. There was appropriated $500,000 for the current year. There was a Budget estimate before the committee of $450,000 for 1927. The action of the committee does not make any new appropriation as recommended by the Budget, but it does provide for the reappropriation of the unexpended appropriation which the Budget did not deal with.

Because of the delay in getting the project organized and various conditions complied with not much of the money is being spent, and in fact it is expected that $375,000 will remain available on the 1st of July. That, it seems, would take care of the necessary construction item in the early part of the work, except the cost or expenses of relocating the railroad right of way. That expense will be a considerable amount. Negotiations as to the division of that expense between the Southern Pacific Railroad Co. and the Government have been under way for some time. The committee is impressed by the fact that the relocation of the right of way is to be of some benefit to the railroad company by some shortening of their line and the elimination of grade.

In addition to that, there is the benefit to the company resulting from the development of this important project. Under similar circumstances, for instance in the Baker project in Oregon and some other cases, there has been a division of expenses between the railroads and the Government. It seemed to the committee, in connection with the San Carlos project, that there should be a very large part of that expense borne by the railroad company. Negotiations are under way making it appear that very likely a reasonable adjustment can be worked out.

It should appear that it was the idea of the committee that it would be unwise to appropriate money for the expense of relocating the right of way until Congress can know what the division of expense is, so that if there should be an unsatisfactory division of expenses, one that did not appeal to Congress as just and right to the water users, we could withhold the appropriation. On the other hand, if the division did appeal to Congress, there would be opportunity to consider before Congress adjourns a further appropriation to carry it into effect.

Mr. HAYDEN. Will the gentleman yield?

Mr. CRAMTON. Yes.

Mr. HAYDEN. I want to say that it has been said that it would be impossible to get bids for the construction of the dam unless the entire amount is first appropriated by Congress. Will the gentleman be kind enough to state the usual rule for public work?

Mr. CRAMTON. In connection with irrigation projects it is not usual to make the appropriation for the full cost. For instance, in the Owyhee project, in which $17,000,000 may be involved, we only appropriated a few hundred thousand dollars. There has been one evil heretofore in the construction of irrigation projects, that they have dribbled the appropriations too much. The gentleman remembers the action of our committee in connection with the construction of the canal leading to the Pima Reservation, where we went above the Budget estimate in order to provide enough for the economical unit of construction.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CRAMTON. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CRAMTON. It seems to us that after we once start on one of these projects we should proceed at the rate most economical and not in driblets, though, of course, we can not expect to do it all in one year. We should provide enough to have the work progress as rapidly as is economical. Before we start construction, however, everything should be in order.

Mr. COLTON. Has actual construction work on this project commenced?

Mr. CRAMTON. Some expenditure has been made on construction work in respect to roads leading up to the dam site, but no actual work on the dam itself, as I understand it.

Mr. BLANTON. Mr. Chairman, I rise in opposition to the motion. This is the only way that we have of asking any questions of the chairman of the subcommittee in charge of the

bill. He does not have time in his 40 minutes to yield to us, although he is very courteous, and I am one of his best friends in this House. I am not criticizing him for it, but I did want to ask him some questions about the policy of the Committee on Appropriations, which incidentally affects the policy of the House, of which all of us are honorary Members at least. When is it to be a proper action on the part of the Committee on Appropriations to exceed the Budget recommendations? Is it when the chairman of the subcommittee sees fit to do it, is it when the committee itself sees fit to do it, or is it when the membership of the House sees fit to do it?

I am one of those who believe in the Budget. I voted for it. I voted to have the recommendations of the President's Budget here to guide us. I believe we ought to follow them, but I believe we ought to have a policy upon which the entire membership can rely at all times. The chairman has just admitted that, with respect to the reappropriation of the amounts in the last item read, the Budget has not recommended it. Did not the chairman admit that? I was trying to ask him a question when he was discussing the bill, but he did not have time to answer me. I wanted to ask him what policy he pursued when he allowed this $400,000 Baker project from Oregon to be put back into the bill, when the Budget had not recommended it. Understand, I am not fighting the Baker project. That would be the last thing that I would do, I want it known to our friends, the gentlemen from the West.

Mr. SINNOTT. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Oh, I am with the gentleman on the Baker project.

Mr. SINNOTT. They did not take up that for this specific reason——

Mr. BLANTON. Oh, I do not want the gentleman to take up my time when I am already with him.

Mr. SINNOTT. Just one minute. The gentleman does not want to mislead the House. They took that up because they were specifically requested to reconsider it by the Secretary of the Interior.

Mr. BLANTON. Oh, but they were not requested to consider it by the Budget. General Lord is the President's manager of this proposition, and he sent in no recommendation for the Appropriations Committee to reappropriate between $400,000 and $500,000 on this Baker project.

Mr. SINNOTT. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Yes; if I can get about two minutes more time.

Mr. SINNOTT. The Secretary did not present it to the Budget, because he wished the Congress to reconsider the matter. He was advised by the Attorney General to lay the matter before Congress for such action as it may deem proper.

Mr. BLANTON. I will tell you what is the matter. It is simply this: When our affable colleague from Michigan [Mr. CRAMTON] goes out to Oregon and visits there, and our friend from Oregon [Mr. SINNOTT] and his constituents—I was about to say wined him, but of course they did not do that—when they dined him and made him feel good-natured, he told them that when he got back to frame the Interior appropriation bill he was going to give them the Baker project of $400,000, whether General Lord approved of it or not.

Mr. SINNOTT. After a visit to Oregon I marvel at the moderation the gentleman from Michigan has shown. [Laughter.]

Mr. BLANTON. What I protest about is this: This should not be a one-man Congress. It ought to be a Congress of all Members, and there ought to be a policy here, when it is necessary to exceed the Budget, to have it done as the wisdom and judgment of the entire membership.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

Mr. SWING. Mr. Chairman, reserving the right to object, when the gentleman speaks of its being a one-man Congress, does he refer to the nights when private bills are considered, and he makes most of the objections?

Mr. BLANTON. Oh, that is a time when objections are in order to back up the Budget and save the President's program of economy. It is to effect economy that I object to certain bills.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas that he proceed for two minutes more?

There was no objection.

Mr. CRAMTON. I am prepared to make response to the gentleman's question.

Mr. BLANTON. I ask the gentleman not to do it in my time.

Mr. CRAMTON. But I have no time myself.

Mr. BLANTON. The gentleman can get time. Mr. Chairman, let me say this in conclusion. I am not fighting the irrigation projects. I believe in irrigation. The only hope of the western country is the reclamation of these arid lands. I am with these western men on that, but let us take the gentleman from Wyoming [Mr. WINTER] who spoke here yesterday so ably and who so ably represents his State. He has some new projects out there which are meritorious and deserving of the consideration of this Congress, but do you think that he could get them in this bill over the Budget when the Budget has not recommended them? No; he could not do it, because, forsooth, the gentleman from Michigan has not yet personally visited these particular projects in Wyoming. He has not been dined out there, as he was in Oregon on the Baker project. He did go out to Oregon, and he did visit the Baker project, and, forsooth, he is in favor of it. [Laughter.] If the gentleman from Wyoming had gotten him out to Wyoming and he had dined there, he might have been in favor of the new project in Wyoming. [Laughter and applause.]

Mr. CRAMTON. Mr. Chairman, I move to strike out the last two words, whatever they were.

The CHAIRMAN. The gentleman from Michigan moves to strike out the last two words.

Mr. CRAMTON. Mr. Chairman, I feel that the gentleman from Texas [Mr. BLANTON] would modify his remarks, knowing his fairness and friendliness, if he knew this is true, that the gentleman from Michigan, since he had this bill in charge, has thought it to be his duty to the committee, as the gentleman says, to go on the reservations and see them; and with respect to the many reservations and projects that I have visited, on no occasion have I yet made any promise on the ground.

Next, I would like to call as witnesses some gentlemen who have projects that I have visited. As to the gentleman from Montana [Mr. LEAVITT], I have visited a number of his projects, and he feels that he did not get all he wanted in response. The gentleman from Wyoming [Mr. WINTER], if he will speak, as I know he would be willing to if he were here at this moment, went with me over the Frannie division, and this bill provides shutting up the Frannie division for 15 months. The gentleman from Nevada [Mr. ARENTZ], sitting here at my right, says I was a guest of his and that he did not get all that he wished.

Mr. LEAVITT. Mr. Chairman, will the gentleman yield there?

Mr. CRAMTON. Yes.

Mr. LEAVITT. Does the gentleman recall criticizing the gentleman from Montana because he did not have fried chicken when he was there? [Laughter.]

Mr. CRAMTON. There may have been one such occasion. But seriously I will say this as to the policy: The departments make their requests and the Budget investigates, and the Budget is directed by the President to keep within a certain total, and they send their estimates here. The policy of the committee has been, since there was a Budget established, to keep the total of our appropriations below the Budget total.

Now, when it comes to particular items the House has before it the total; the subcommittee has before it the total; and the full committee has before it the total; and so all of us, the subcommittee, and the full committee, and the House, and the gentleman from Texas [Mr. BLANTON], have the right to consider each item on its merits, making occasionally a cut and occasionally an increase, as deemed wise to us; but in all cases when we have a Budget system, if we are to have one that is worth anything, our duty is to see to it that the total be kept within the Budget total.

Mr. BLANTON. Will the gentleman yield?

Mr. CRAMTON. Yes.

Mr. BLANTON. Mr. Chairman, our colleague from New Mexico [Mr. MORROW] has a most meritorious project, the Red Bluff project. Has the gentleman from Michigan visited it?

Mr. CRAMTON. I have not been able to visit every project that had not been passed upon by the Budget. But I will say this: That the gentleman from Michigan will not support any request for an appropriation, whether approved or not approved, by the Budget that does not appeal to him as a wise expenditure of money; and if he is lacking in information as to the wisdom of an expenditure, he is not going to favor it.

Mr. BLANTON. Have you not found it advisable to make these?

Mr. CRAMTON. Yes.

Mr. BLANTON. I have visited the Red Bluff project in New Mexico. It is a worthy project.

Mr. CRAMTON. The gentleman from Michigan has spent all the time in visiting them that he has been able to devote to that purpose; but if the hospitality of the State of New Mexico, neighbor of Texas as it is, is to be such that after having been there I shall not be allowed to exercise my independent judgment, I shall hesitate to go. [Laughter.]

Mr. MORROW. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from New Mexico.

The Clerk read as follows:

Amendment offered by Mr. MORROW: Page 27, line 13, beginning with the word "For," strike out the entire paragraph.

Mr. MORROW. Mr. Chairman and gentlemen, I am offering this amendment in order to obtain an explanation as to whether the compact entered into by my State and the upper-basin States is being affected by carrying out this project. You have all heard of the Colorado River compact, where six States have ratified and the State of Arizona has not. The gentleman from Arizona [Mr. HAYDEN] assured me that he can make a proper explanation.

This proposition in the construction of the Coolidge Dam at San Carlos, Ariz., is to impound 1,000,000 acre-feet of water to irrigate 80,000 acres. The impounding of this water a million acre-feet will take the natural flow of the Gila River, which rises in my State, and has a drainage equal, if not greater in my State than it has in the State of Arizona. There is no doubt but that the Pima Indians have certain rights to the water. Water is the vital thing needed in the arid section of our country, and I want to know if my State is losing its water rights. I do not desire to interfere with a project that is authorized and should be carried forward; but if this is for the protection of the Indians and is primarily an Indian project—and the Indian Department says it is for the purpose of giving to each Indian, 4,000 of them, an irrigated tract of 10 acres each—it means only 40,000 acres.

This extension of 40,000 acres more will require 460,000 acre-feet of water. It is true that in the State of New Mexico at this time we have very little land under irrigation from the waters of the Gila or the San Francisco, a branch of the Gila River; but we have in New Mexico lands that can be irrigated to the extent of 77,000 acres tributary to these rivers.

In the Colorado River compact, which has not yet been ratified by the State of Arizona, Arizona is now securing certain water rights that eventually will affect the upper basin and will affect my State more, perhaps, than any other of the States that are located in the upper basin, for the reason that the Gila River flows into the Colorado below the proposed Boulder Dam. If the gentleman will offer a proper explanation I will not insist on my amendment, but I desire an explanation. My people in the State expect their rights protected and water to use in New Mexico and to the arid region is like the blood in the human body; without it we can not survive, and we can not go ahead, improve, and support a population.

Mr. CRAMTON. If the gentleman will yield, I will say that this project is going forward under a bill which passed the Congress, I think, in June, 1924.

Mr. MORROW. I am aware of that.

Mr. CRAMTON. Which specifically authorized the project. That came from the legislative committee, and I assume that committee gave consideration to questions such as the gentleman suggests, but the questions which the gentleman suggests have never been before our committee.

The area involved, as I understand it, is 80,000 acres, of which 40,000 is Indian land and 40,000 other land, and no doubt the gentleman from Arizona [Mr. HAYDEN], who is on his feet, will be able to give further information to the gentleman from New Mexico.

Mr. MORROW. The impounding of 1,000,000 acre-feet, the usage of 320,000 acre-feet, the natural flow of the stream being 425,000 acre-feet, it will take practically two years and a half to fill the reservoir so that no water would be left for New Mexico to appropriate later on.

Mr. HAYDEN. Mr. Chairman, I rise in opposition to the amendment. I thoroughly sympathize with the desire of the gentleman from New Mexico [Mr. MORROW] for information about this appropriation. I agree that he has a perfect right to make inquiry as to how the construction of the Coolidge Dam might affect future irrigation developments in his State.

Mr. MORROW. And in the upper basin also?

Mr. HAYDEN. In answer to the inquiry of the gentleman with reference to the Colorado River compact, as one who was and is friendly to that agreement I can state that under its terms an additional quantity of water was allotted to the lower basin to compensate for the inclusion of the Gila River in the Colorado River system. The provision of the compact which so provides reads as follows:

ART. III. (a) There is hereby apportioned from the Colorado River system in perpetuity to the upper basin and to the lower basin, respectively, the exclusive beneficial consumptive use of 7,500,000 acre-feet of water per annum, which shall include all water necessary for the supply of any rights which may now exist.

(b) In addition to the apportionment in paragraph (a), the lower basin is hereby given the right to increase its beneficial consumptive use of such waters by 1,000,000 acre-feet per annum.

Mr. COLTON. Will the gentleman yield?

Mr. HAYDEN. I yield to the gentleman from Utah.

Mr. COLTON. Is the gentleman advised as to the other rights which are to be satisfied out of the million acre-feet allotted to the lower basin in excess of the amount allotted to the upper States?

Mr. HAYDEN. I have talked on that point with Mr. Norviel, who represented the State of Arizona as one of the commissioners to negotiate the Colorado River compact. It was his contention, as such commissioner, that the Gila River and its tributaries should not be included in the Colorado River system. Failing in that he finally agreed that an additional million acre-feet be allotted to the lower basin to compensate for the inclusion of the Gila drainage basin in the Colorado River system.

Mr. COLTON. Then the gentleman understands that the water to be impounded by this dam is a part of the million acre-feet allotted by the compact.

Mr. HAYDEN. That would be a logical conclusion, because the million acre-feet were allotted to compensate for the inclusion of the Gila River in the Colorado River system.

Mr. COLTON. I am not questioning the gentleman's statement, but my advice was that there were rights in Mexico and in the Imperial Valley of California that would be taken care of or were to be taken care of out of this million acre-feet.

Mr. HAYDEN. I am interested to know where the gentleman from Utah received that advice, because it is news to me. I have never heard any other explanation than that the additional million acre-feet of water was apportioned to the lower basin for the reason that I have stated.

Mr. COLTON. I will say to the gentleman that I can not tell him exactly, but my understanding was reached from a conversation with a representative from my State on the commission that drew the compact at Santa Fe.

Mr. HAYDEN. I shall now answer another question propounded by the gentleman from New Mexico. His first interest relates to the Colorado River by reason of the fact that the San Juan River drainage area is a part of the upper basin. His second interest is because the Gila River, upon which the Coolidge Dam is located, heads in New Mexico. The Colorado River compact is designed to prevent litigation between the seven interested States and was written primarily to take care of the situation on the main stream. It does not contemplate and could not affect an apportionment of the waters of a tributary like the Gila as between the two States of Arizona and New Mexico. An apportionment of the waters of the Gila River, if undertaken, would have to be cared for by a supplemental agreement between Arizona and New Mexico. No such supplemental compact has been made and, in my judgment, is not necessary, because an apportionment of the waters of the Gila River will soon be accomplished by a suit which was filed in the Federal court for the District of Arizona on October 3, 1925. I have suggested the settlement of that suit by stipulation, but in any event the Federal judge will determine the quantity of water that may be used from the Gila River in each State.

Mr. CARTER of Oklahoma. Will the gentleman yield?

Mr. HAYDEN. With pleasure.

Mr. CARTER of Oklahoma. What effect would the Coolidge Dam have on the apportionment of the water between the two States and what rights would it give the San Carlos project over and above New Mexico which it does not now have?

Mr. HAYDEN. The construction of the Coolidge Dam has been authorized by Congress, and that fact would have to be recognized in any negotiations which contemplated an apportionment of the waters of the Gila River between the States of Arizona and New Mexico. No such apportionment could give the San Carlos project any better right to the use of water from the Gila River than it now has by reason of the fact that its construction is authorized by law and has been actually undertaken by the Federal Government.

The gentleman from New Mexico has stated that he is informed that it is possible to irrigate 77,000 acres of land in

New Mexico with water from the Gila River. I have traveled across the plains in the vicinity of Lordsburg in his State and have no doubt but what such an area of land as he has mentioned might be irrigated if water could be obtained from the Gila River. The word "possible" must be used advisedly, because there is not water enough in that stream to irrigate any such area of land in New Mexico without depriving other lands of water to which they have a vested right, or at least a better right than the lands on the Lordsburg plains.

NEW MEXICO HIGH-LINE CANAL IMPRACTICABLE

In my opinion the proposal to irrigate 77,000 acres of land in New Mexico with water from the Gila River is but another example of the many reclamation schemes that have been conceived in the minds of men who depend upon fancy rather than facts for their inspiration. Probably we shall always have with us those who can not look upon a stretch of level desert land without weeping because it is a desert. They rebel because Divine Providence has so arranged the world that vast areas in Asia, Africa, Australia, and America are condemned forever to remain as deserts. Their real complaint is against the lack of rainfall, which unfortunately nature does not distribute as needed over all parts of the earth.

To make up for the lack of moisture which fails to fall from heaven, some of those who indulge in such dreams engage themselves in the delightful occupation of constructing imaginary canals following the contour lines on topographic maps. Some one has no doubt amused himself by following that pastime in New Mexico without first ascertaining how much water there is in the Gila River and who has the best right to use it.

I earnestly suggest to those who have proposed this plan that they first devote their energies to a study of the adequacy of the water supply, and when they have done so I am sure they will no longer stand in the way of real and actual development, as is proposed by the construction of the Coolidge Dam. The truth is that there is not water enough in the Gila River to irrigate all the level desert land that could be irrigated if it were a larger stream. The water is not there.

Mr. MORROW. But the gentleman will admit that if the water was impounded, they could utilize it?

Mr. HAYDEN. Not even if the entire flow of the Gila River were impounded. I repeat, that there is more land capable of irrigation from that stream than all the water that ever flows in it any time can supply.

Mr. MORROW. That is absolutely true; but if you build your dam and impound the 1,000,000 acre-feet, there will not be any left for New Mexico.

Mr. HAYDEN. There will be left for the residents of New Mexico the same right to water as there is for the residents in Arizona above the Coolidge Dam. If they now have a vested right to water, it will be recognized by the Federal court, and that is as far as the court can go, because, as I have said, there is not water enough for everybody.

The Pima Indians were the first appropriators of water on the Gila River. They have been deprived of the use of their water by the negligence of the Federal Government in failing to protect them in times past both from diversions above and against a ruination of the watershed by overgrazing. The only way to restore the ancient water supply of the Pima Indians is to create a great reservoir at San Carlos. All the engineers who have examined into the matter agree that San Carlos is the proper place and to build the Coolidge Dam is the proper way to accomplish that result. The primary purpose of the act passed last year by the Congress to continue the construction of the San Carlos project was to take care of the Pima Indians. When 10 acres of irrigated land is provided for every man, woman, and child in that tribe—and there are about 4,000 of them—it is conceded that Congress will have done its full duty.

In order to do that the Coolidge Dam must be built. It is possible to impound at San Carlos about twice the quantity of water necessary for the lands of the Pimas, and the surplus water will be used upon the lands belonging to white settlers, but the Indians must be first provided with water. That is clearly stated in the law. There is only one place to apply the surplus water to be stored at San Carlos, and that is to lands in the vicinity of the Pima Indian Reservation.

Mr. ARENTZ. Do the Pimas have the prior water right?

Mr. HAYDEN. The gentleman from Nevada should know that it is conceded by everybody that the Pima Indians are the prior appropriators, not by years but by centuries.

Mr. ARENTZ. So the white settlers come after the Pimas are served?

Mr. HAYDEN. Certainly.

Mr. ARENTZ. I would like to ask the gentleman another question. The people of Nevada and of California, although I am speaking more particularly of Nevada, are very much interested in the Colorado River. They want to see a dam constructed there soon. Has the gentleman any inside information from the Governor of Arizona as to what he wants or whether he will approve the Colorado River compact?

Mr. HAYDEN. I am sure that the Governor of Arizona is perfectly competent to speak for himself in that regard.

Mr. ARENTZ. The gentleman does not profess to know, then?

Mr. HAYDEN. I have no inside information at this time.

To return to the question asked by my friend the gentleman from New Mexico [Mr. MORROW], I must say that as a practical proposition it is indulging in an idle hope that any vast area of land can be irrigated in the State of New Mexico as the gentleman has indicated by his figure of 77,000 acres. That can not be done, and it is not right that it should be done, because to do so would deprive the Pima Indians of their water rights.

Mr. MORROW. After you get through with the 40,000 acres and take care of these 4,000 Indians, your white Indians in Arizona are no better than the white Indians up in New Mexico.

Mr. HAYDEN. What the gentleman says is very true; but water will not run uphill, and the physical situation is such that there is only one suitable place to impound the floods of the Gila River. The San Carlos project having been carefully investigated and approved by Congress, this appropriation, which the gentleman's amendment would strike from the bill, is in reality a mere matter of routine which must be performed in order to carry the law into effect.

Mr. MORROW. When the gentleman says water will not run uphill the gentleman means after you have got it downhill and have impounded it. [Laughter.]

Mr. LEATHERWOOD. Will the gentleman yield?

Mr. HAYDEN. I yield to the gentleman from Utah.

Mr. LEATHERWOOD. Do I understand the gentleman to say that the rights of the Pima Indians are vested rights?

Mr. HAYDEN. The law of my State provides that the first in use shall be first in right, and there is no question but that the Pimas were the original appropriators on the Gila River and have a vested right to water.

Mr. LEATHERWOOD. For further information, is it conceded that the right of the Pima Indians is a senior right to any rights of New Mexico upon the river?

Mr. HAYDEN. Or to the right of any white man anywhere on the river above.

Mr. HUDSPETH. Will the gentleman yield?

Mr. HAYDEN. I yield to my friend from Texas.

Mr. HUDSPETH. As I understand, there is a reservation in New Mexico where there are quite a number of Indians. Does the building of this San Carlos Dam take any rights away from those Indians which they had prior to the building of this dam?

Mr. HAYDEN. I know of no such Indian lands in New Mexico, but in no event would it be possible to do that.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. MORROW. Mr. Chairman, I ask unanimous consent that the gentleman may have two additional minutes. I would like to ask the gentleman a question.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MORROW. The appropriation of this 1,000,000 acre-feet at the Coolidge Dam in no way violates the compact that the six States have signed by taking any water from their proportion of it.

Mr. HAYDEN. No; it can not violate either the letter or the spirit of the Colorado River compact.

Whether 1,000,000 acre-feet or any larger or smaller quantity of water is diverted from the Gila River for beneficial use on lands in Arizona is a matter that does not and can not be of any interest to the States of the Upper Basin. The water of a tributary to the Colorado River if not used in one of those States may be used in another, and, therefore, can become the basis for a controversy. The Gila River, however, empties into the Colorado River at a point where it is impossible to divert the water for use on lands in any other State except California. The Imperial Canal takes water from the Colorado River at Hanlon Heading, which is below the mouth of the Gila, but the diversion at that point is only temporary, since the Imperial irrigation district is obligated to extend its main canal up to the Laguna Dam, which is above the mouth of the Gila River.

Every lawyer will agree that a suit can not be maintained in any court unless an injury or damage, real or prospective, can be shown. Since no other State in the Colorado River Basin can use the water of the Gila River after it empties

into the Colorado River, it can never be a matter of concern to them as to what use Arizona may make of that water. Whether there be 1,000,000 acre-feet of water available for storage in the Gila River and its tributaries or three times that amount, the fact remains that, so far as an apportionment of the waters of the Colorado River is concerned, the use of water from the Gila in Arizona is of interest to that State and to that State alone.

Mr. LEATHERWOOD. Was the water of the Gila River taken into consideration in determining the normal flow of the Colorado River at the time the compact was framed?

Mr. HAYDEN. I have heretofore stated that the commissioner from the State of Arizona who assisted in drafting the Colorado River compact advised me that the additional 1,000,000 acre-feet mentioned in the compact was granted to the lower basin to compensate for the inclusion of the Gila River in the Colorado River system, so the question that the gentleman from Utah has asked must have been taken into consideration at that time.

Mr. MORROW. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

There being no objection, the amendment was withdrawn.

The Clerk read as follows:

For payment of annual installment of reclamation charges on 800.3 acres of Paiute Indian lands within the Newlands project, Nevada, and for operation and maintenance charges against Indian lands within said project, $13,500; for payment of annual drainage assessments against said lands, $2,500; in all, $16,000, reimbursable from any funds of the said Indians now or hereafter available.

Mr. ARENTZ. Mr. Chairman, I move to strike out the last word. The Newlands project comprises 70,000 acres, 35,000 of which has already been placed under cultivation. There was a large dam constructed, impounding 60,000 acre-feet of water, and below the dam a power plant has been constructed, through which the water used for irrigation is passed during the irrigation season for the development of power. As a matter of fact this power plant takes water 12 months in the year from both the Truckee River and the Carson River. Last year there was filed a suit by the Government against the water users of the Carson River to adjudicate the rights of the settlers on Carson River to the water in that river. There is much splendid land in Carson Valley, on the Carson River many miles above the above-mentioned dam and reservoir, which should have use of all water in the Carson to which it is entitled. If the Government, through the operation of the power plant below the Lahontan Dam, is using water not beneficially used upon land embraced within the Newlands project, then this water should be turned over for use upon the land in Carson Valley.

The conditions brought about by the filing of this suit is apt to cost the settlers of Carson River $50,000 or $60,000.

To my mind the matter can be settled as well in Washington as in the Federal courts of Nevada. The thing which should appeal to the Reclamation Service as a matter of right and justice is the fact that included in the Newlands project is water necessary to develop power below the Lahontan Dam during the nonirrigating season, when only that water which is stored belongs to the Government. If this amount was deducted from the full amount of waters appropriated as above stated it would be amply sufficient to serve the needs of all the settlers of the upper Carson River and supply water to the land now in sagebrush.

Mr. WILLIAMSON. Will the gentleman yield?

Mr. ARENTZ. I will.

Mr. WILLIAMSON. Is this a private plant?

Mr. ARENTZ. It was erected by the Reclamation Service and leased to private interests. When I wired back to Washington last winter, when it seemed that the supply of water was going to be low on account of the lack of snow in the high Sierras, I was told that in all likelihood water would be sufficient for the year, and it turned out that it was sufficient; but the water passing through the power plant during the nonirrigating season belongs either in the reservoir or to the settlers in the Carson Valley for lands now only partially supplied with water or for new lands. But if during the year the water was not sufficient to meet all needs it should be conserved for use during the irrigating season by impounding it in the reservoir behind Lahontan Dam.

Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Mount Pleasant, Mich.: For 400 pupils, $78,750; for pay of superintendent, drayage, and general repairs and improvements, $12,000; for connecting with city water supply, $3,500; for construction of hospital, including not to exceed $10,000 for remodeling old hospital into a girls' dormitory, $20,000.

Mr. CRAMTON. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 43, line 16, strike out "$78,750" and insert in lieu therof "$90,000."

Mr. CRAMTON. Mr. Chairman, the attendance was increased from 350 to 400, but through an error the amount for maintenance was not increased in proportion.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

Sequoyah Orphan Training School, near Tahlequah, Okla.: For 250 orphan Indian children of the State of Oklahoma belonging to the restricted class, to be conducted as an industrial school under the direction of the Secretary of the Interior, $56,250; for pay of superintendent, drayage, and general repairs and improvements, $9,000.

Mr. HASTINGS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. HASTINGS: Page 45, line 13, after the word "for," strike out "250" and insert "300."

Mr. CRAMTON. Mr. Chairman, the amendment is in accordance with the policy of the committee to provide maintenance for the full capacity for which there is a demand. There appears to be a demand for that capacity in this school, and the committee has no objection to the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HASTINGS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. HASTINGS: Page 45, line 16, after the word "Interior," strike out "$56,250" and insert "$67,500."

Mr. HASTINGS. Mr. Chairman, this adds $225 per pupil for 50 pupils, making $11,250, which would make the correct amount.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The amendment was agreed to.

The Clerk read as follows:

The Secretary of the Interior is authorized to withdraw from the Treasury of the United States, in his discretion, the sum of $35,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Chippewa Indians in the State of Minnesota arising under section 7 of the act of January 14, 1889, and to expend the same for payment of tuition for Chippewa Indian children enrolled in the public schools of the State of Minnesota.

Mr. WEFALD. Mr. Chairman, I move to strike out the last word, for the purpose of getting some information. Why is the money expended in this manner for the Chippewa Indians charged up against their own trust funds, where every other item in the bill expended for a like purpose is expended out of the United States Treasury? I would like to know also in what manner the money is expended.

Mr. CRAMTON. Mr. Chairman, the gentleman is not quite correct. This is not the only instance in which funds of Indians are expended rather than money from the Treasury. The general policy is to use the funds of the Indians when they have funds. When they do not have funds and relief is essential, we use the funds of the Treasury. We go so far in some cases as to use the Indians' funds entirely for the administration of their affairs. With the origin of this particular item I am not familiar. The department states that—

the parents of these children seldom own taxable real property, or pay such small amounts in taxes that they contribute little or nothing in the way of support to the local public-school system. A number of the public schools in the Chippewa country, particularly in the poorer and more isolated districts, are attended almost exclusively by Indian children, and it is entirely proper that the public-school districts be compensated for the educational facilities afforded the Indians.

Of course, it is manifest to the gentleman from Minnesota that because of the nontaxable Indian property in the district, the district is not able to raise money to maintain the schools, but, as the school is largely used by the Indian children, it is only fair that some contribution be made by them. The figures showing just where the money is expended are to be found on page 388 of the hearings, and the gentleman will see that it is in public-school tuition. There are a number of dis-

tricts shown here, and the rate of tuition runs from 25 to 35 cents, and occasionally as high as 50 cents, per pupil.

Mr. WEFALD. Could the gentleman tell us whether, where this money is expended for schools, the majority of the pupils are white children?

Mr. CRAMTON. I am not able to say whether the majority is or not. The bureau states that these schools are attended almost exclusively by Indian children, and I note that the number where tuition is paid runs from as low as 1 in a district to as high as 90. I suppose where there are 90 children the school is exclusively Indian, but where there is only 1 there must be a number of white children.

Mr. WEFALD. The gentleman knows that this is not the only money expended for the education of the Chippewa Indians. Could the gentleman tell the committee how much more money is expended out of the Chippewa funds for education?

Mr. CRAMTON. It is possible that the gentleman knows that offhand better than I do. I have not that in mind now.

Mr. CARTER of Oklahoma. Mr. Chairman, if the gentleman will yield to me, I think I can explain this. The gentleman will note that this paragraph refers to the act of January 14, 1889, which covers the expenditure of these funds. As my friend from Minnesota knows, the act of January 14, 1889, is a treaty. The reason that these funds are expended from tribal funds rather than from the Treasury is because this act of January 14, 1889, provides for that, and this is in compliance with a treaty with the Indians.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. WEFALD. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CARTER of Oklahoma. With respect to the expenditure of Indian funds, as to whether that expenditure is made from the Treasury funds or from tribal funds, that is a matter which is governed largely by treaty stipulations in almost every case. Take the Kiowa, the Comanche, the Osage, the Apache, the Choctaws, and Chickasaws in Oklahoma, and the gentleman will find that a great part of their expenses are paid from tribal funds. Go to other tribes, and the gentleman will find that there are treaties requiring that these payments be made from the Federal Treasury; and if the gentleman will take the trouble to run down these provisions, he will find that in four cases out of five the question of whether the fund comes from the tribal fund or from the Treasury of the United States is governed by a treaty provision, as it is in this case.

Mr. WEFALD. But could the gentleman answer another question? The Chippewa Indians understand, or think they understand, that this item here, as carried in every appropriation bill for the Interior Department, is the amount of money that is expended outside of that which is expended under the treaty provisions?

Mr. CARTER of Oklahoma. That, of course, would be a matter of construction. It is dangerous for a man to undertake to construe a document without having the document before him; but as I recall that treaty, after having given it considerable study in committee and otherwise, it requires that the expense of education of the Chippewa Indians shall be paid out of tribal funds. That policy has been followed positively with reference to all Indian education in Minnesota, except in one Indian school, as I recall.

Mr. WEFALD. They have paid for their own education?

Mr. CARTER of Oklahoma. Yes; they have paid for their own education almost exclusively.

Mr. WEFALD. Hardly any other Indian tribe has done that?

Mr. CARTER of Oklahoma. Well, the Choctaws and Chickasaws and Kiowas and Comanches and Apaches have done the same thing.

Mr. WEFALD. I did not intend to offer an amendment. I have asked these questions for information. The pro forma amendment will be withdrawn.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

Mr. ARENTZ. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nevada?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Idaho: Fort Lapwai Sanatorium, $50,000; Fort Hall Hospital, $12,000.

Mr. CRAMTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Michigan.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON: Page 50, line 7, strike out the sum "$50,000" and insert in lieu thereof the sum "$56,000."

Mr. CRAMTON. That is a case where construction has increased, and through oversight provision was not made for it.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Oklahoma: Cheyenne and Arapahoe Hospital, $11,000; Choctaw and Chickasaw Hospital, $46,000, of which $6,000 shall be available only for road construction within the reservation; Shawnee Sanatorium, $40,000.

Mr. McKEOWN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma

The Clerk read as follows:

Amendment offered by Mr. McKEOWN: Page 50, line 21, insert: "For rebuilding and equipping the hay and horse barns at the Shawnee Sanatorium, Oklahoma, destroyed by fire, $4,750, to be available until June 30, 1927."

Mr. CRAMTON. Mr. Chairman, I understand that is an item of emergency resulting from a fire. It came in too late to be included by the Budget. I have no objection to it.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McKEOWN. Mr. Chairman, I offer another amendment, to conform to the preceding amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma.

The Clerk read as follows:

Amendment offered by Mr. McKEOWN: On page 50, line 21 (to follow first amendment), insert: "For constructing and equipping laundry building and bakery annex building at Shawnee Sanatorium, Okla., $6,000, to be immediately available."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. WILLIAMSON. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from South Dakota moves to strike out the last word.

Mr. WILLIAMSON. On page 50, line 22, the item reads:

South Dakota: Crow Creek Hospital, $9,000.

Is there any appropriation made for the purpose of converting the school building there into a hospital?

Mr. CRAMTON. I thing that is a maintenance item.

Mr. WILLIAMSON. Is there a hospital at Crow Creek?

Mr. CRAMTON. Yes. It has been carried for some time. It is a maintenance item.

Mr. WILLIAMSON. Complaint has been made to the effect that they are converting a school building into a hospital. If there is already a hospital there, it is all right.

Mr. CRAMTON. If it is for repairs and improvements, it is in continuation of the amount heretofore carried. For the current year it is $9,430. The item here is $9,000.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Minnesota: Consolidated Chippewa, $3,000; Red Lake, $60,000, payable out of trust funds of Red Lake Indians; in all, $63,000.

Mr. WEFALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WEFALD: Page 56, line 5, strike out the figures "$60,000" and insert in lieu thereof the figures "$25,000."

Mr. WEFALD. Mr. Chairman, I would like to have the attention of the chairman of the subcommittee on appropriations. This is an increase of $35,000 over the Budget provision of last year, and on page 451 of the hearings there is an explanation offered by the department for this increase as follows:

This amount is $35,000 in excess of that authorized for the current fiscal year. This increase is made necessary by the recent erection of a sawmill on this reservation, for the operation of which the additional funds will be required. The money will be used for salaries and

irregular labor, fuel, forage, provisions, sundry supplies, repairs, travel expenses, and incidentals at this agency, which is almost entirely supported from tribal funds.

Two years ago there was an appropriation of $75,000 made for this particular sawmill, and they stated at that time it would be sufficient to finance it, and that it would be a paying proposition and a good investment as far as the interest of the Chippewa Indians is concerned.

Mr. WILLIAMSON. Will the gentleman yield?

Mr. WEFALD. I will.

Mr. WILLIAMSON. Is this not a case where a two-band sawmill burned and where they started to construct a new one-band sawmill and it became necessary to add another band to the mill, which is the cause of the increased appropriation?

Mr. WEFALD. It appears from this explanation that it is for the pay of labor at this mill.

Mr. CRAMTON. If the gentleman desires to yield there, I will say that as I understand the situation a mill is being constructed. Whether it is because of the reason set forth by the gentleman from South Dakota [Mr. WILLIAMSON] or whether it is a new mill, I do not know, but the mill is being constructed out of another appropriation heretofore made. The item before us is to pay the personnel in the operation of the mill. The Indian Service says they are going to be able to show a profit from the operation of that mill; that the use of this personnel in the operation of this mill, which is otherwise provided for, will show a profit. The gentleman will note from the hearings that the reservation "contains timber worth nearly a million and a half dollars, which comprises its main asset and it is being developed under authority of the act of May 18, 1916, which authorized the erection of that sawmill. Such a mill is now being built, as experience has shown that it is necessary for the proper handling of the timber. The Indians are greatly in need of improved homes, and some of the lumber will be used for that purpose." Certainly the gentleman would not expect us to construct a mill, have the timber stand there and not provide for the operation of the mill?

Mr. WEFALD. I will say the gentleman does not expect that but he does expect them to make their money out of the timber they have there. If they have 100,000,000 feet of lumber there they can sell it. Lumber is now selling at a rate from $14 to $18 per 1,000 on the stump, so that they ought to be able from the proceeds of the lumber to finance the operation of the mill. If they can not do that it is about time to shut the mill up.

Mr. CRAMTON. The proceeds received from the sale of the lumber go into a fund belonging to these Indians and the money necessary for the operation of the mill is taken out of the funds of the Indians. We are doing exactly what the gentleman from Minnesota urges should be done.

Mr. WEFALD. And we are appropriating money to meet deficiencies all the time.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Minnesota.

The amendment was rejected.

Mr. WEFALD. Mr. Chairman, I realize the uselessness of trying to amend this bill, even though I ask that no amounts herein carried for the Chippewa Indians of Minnesota be increased, but in the last amendment offered asked a decrease in expenditure. Even faithful, regular Republicans interested in irrigation will not be able to change one sentence of the bill. But I feel it my duty to voice the protest of the great majority of the Chippewas, who are my constituents, against the wanton dissipation of their tribal funds as Congress is making itself a party to from year to year when it blindly follows the recommendations of the Indian Bureau.

On page 59 of this bill, lines 3 to 11, it reads:

The Secretary of the Interior is authorized to withdraw from the Treasury of the United States the sum of $30,000, or as much thereof as may be necessary, of the principal sum on deposit to the credit of the Red Lake Band of Chippewa Indians in the State of Minnesota arising under the act of May 18, 1916 (39 Stat. L. p. 138), and to expend the same in construction and equipment of planing mill, box factory, cottages, office, and steamboat, and minor sawmill appurtenances.

This makes a total of $65,000 that is requested for this sawmill enterprise this year. In 1916 Congress authorized the expenditure of $25,000 for logging operations. In the act approved May 25, 1918, Congress authorized that—

eighty thousand dollars of the fund derived from the sale of timber from the Red Lake Indian Forest—

be used for—

logging, booming, towing, and manufacturing timber at the Red Lake Agency sawmill.

The act of June 30, 1919, gives $10,000 for this same enterprise, and also contains the following proviso:

Provided, That hereafter all proceeds of sale of timber products manufactured at the Red Lake Agency sawmill, or so much thereof as may be necessary, shall be available for expenses of logging, booming, towing, and manufacturing timber at said mill.

The items given toward establishing this enterprise and to keep it going for the years 1916, 1918, 1919, 1924 and what will be voted for it this year makes a total of $255,000, besides what under the authorization of 1919 has been put into the business from the proceeds of timber products sold; how much this latter is I do not know but it is very likely a tidy sum. The lumber business being a very profitable business if handled right, there should now be great sums standing to the credit of the Chippewas in this special fund, especially when you consider that the timber from which lumber is manufactured has not to be bought and paid for but is right there for the taking. The Chippewa Indians that I represent claim that the Red Lake sawmill is a losing proposition and that the forest from which the logs are cut that are being manufactured into lumber at this mill is the common property of the whole Chippewa Tribe and not the exclusive property of the Red Lake Band.

A lumber manufacturing enterprise that has had $255,000 put into it and that has an unlimited supply of logs to draw on should be able to compete with the Lumber Trust on a money-making basis; there is no price cutting in that business and the whole of the United States is a ready market for pine lumber. But such a business needs understanding and experience and constant attention and can not be run from a departmental office at Washington 1,500 miles away. It is better to let the timber stand, for it will increase in value as the years go by and that will pay a bigger percentage of interest on the capital than will be paid on money standing to the credit of these people in the United States Treasury.

On page 58 of this bill is carried an item of $50,500 for general agency purposes, also to be paid from the principal sum on deposit to the credit of these Indians. Against this item I also wish to voice a protest, the Chippewa Indians being practically the only Indians that out of their own funds pay for the blessings of a general agency. It should go out on a point of order, being legislation on an appropriation bill, but I realize that it would be useless to make such a point of order.

The act of January 14, 1889, was submitted to the Indians and by them ratified. It thereby became an agreement binding alike upon the United States and the Indians. Section 7 provides that the fund shall bear interest at the rate of 5 per cent per annum; that three-fourths of the interest money annually accruing shall be paid to the Indians, and the remaining one-fourth used for school purposes, and that at the end of 50 years the fund shall be divided share and share alike among the original enrolled Indians and their issue then in being. In order to provide against unforseen contingencies, such as the failure of crops, or other misfortune that might overtake the Indians, the following proviso was added:

Provided, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof.

When the act of January 14, 1889, was submitted to the Indians for ratification the Indians asked the commissioners representing the United States, the meaning of this proviso, and the commissioners solemnly assured the Indians, as appears from the official record of the negotiations, that this provision was inserted so that Congress might relieve their distress in the event of the failure of crops or any unforeseen misfortune that might overtake them. The Indians, relying upon this explanation, and believing that their trust funds were only to be used to relieve distress among them, accepted and ratified the act of 1889. It is settled law that the United States is bound by the interpretation by its representatives of treaties and agreements made with the Indians, which interpretations were accepted and relied upon by the Indians and were the inducing cause of the acceptance of the treaty or agreement by the Indians. This is particularly true where the interpretation by the representatives of the United States is not inconsistent with the text of the provision in the treaty or agreement. The explanation of this proviso given the Chippewa Indians by the commissioners representing the United States is not inconsistent with the meaning of the language employed. The proviso recites that Congress may, in its dis-

cretion, from time to time, appropriate not to exceed 5 per cent of the principal fund. The words "may appropriate from time to time" clearly indicate that it was the intention of both the United States and the Indians that the discretion was only to be used when in the opinion of Congress it was necessary to afford relief to the Indians. The money when appropriated was to be used for "the purposes of promoting civilization and self-support among the Indians." This latter language had a well-defined meaning at the time the agreement was accepted by the Indians.

Similar language had appeared in the appropriation bills for more than 50 years theretofore. The money so appropriated had always been expended in purchasing food, clothing, farming implements, and other articles for the Indians. Not a dollar of it had ever, theretofore, been used in defraying the expenses of any Indian agency. For 20 years after the agreement of 1889 not a dollar of the funds of these Indians was ever used in defraying the expenses of the Indian Bureau agencies in Minnesota, which indicates the interpretation placed upon this proviso by the United States for 20 years after the agreement was ratified. In 1910 the Indian Bureau conceived the idea of paying the expenses of its agencies in Minnesota out of the trust funds of these Indians, and since that time their trust funds have been used for that purpose. The Indians have complained against this abuse of power. It is a plain violation of the terms of the trust under which the money is held. The United States Indian agencies in Minnesota are a part of the Government of the United States. They were established and have been ever since maintained pursuant to a governmental policy with which the Indians have had nothing to do. This policy was forced upon the Indians. To use their trust funds to pay expenses of a branch of the Government of the United States is an act of bad faith, particularly when such use is in plain violation of the agreement under which the fund was created. The Indians ask the Congress of the United States to deal honorably with them and to cease treating the agreement of 1889 as a mere scrap of paper. Sooner or later the Government of the United States must make restitution to these Indians for all amounts taken from their trust funds and used in defraying the expenses of the Indian Bureau and its agencies.

On page 58 of this bill there is also carried an item of not to exceed $10,000 that may be expended in aiding in the construction, equipment, and maintenance of additional public schools in connection and under the control of the public-school system of the State of Minnesota. This provision was first written into the Interior Department appropriation bill in 1919, and its reenactment has been requested in every bill since that time. The original item was designed to assist in providing public schools at White Earth, Pine Point, and Red Lake to take the place of Government schools. Sixty thousand dollars has heretofore been appropriated in this manner, and only a part of the money has been used. In 1924 only $1,500 was used for this purpose, and in 1925 $1,000 was used. Why, then, keep on appropriating $10,000 a year in this manner when the amount can not possibly be expended under any circumstances.

On page 59 of the bill is carried an amount of $78,000 to be expended for the support of Indian hospitals. While this is a just expenditure and expended for a laudable purpose, it is my opinion that it has not been spent in the wisest manner. A reasonable part of this money should be spent for the employment of competent physicians to attend the Indians at their homes.

The affairs of the Chippewa Indians of Minnesota are full of controversial questions. It is one of the deals in the administration of which the United States Government has fallen down badly. There are many bills introduced in this Congress, some by myself and some by others, that aim at straightening out these crooked matters and winding up the stewardship for these Indians of the United States Government. When hearings are held on these bills by the Committee on Indian Affairs, I shall present grievances that these people hold against the way their affairs are being administrated, and petition to Congress for redress and for speedy adjustment of their affairs.

Mr. Chairman, I hold no personal animosity toward any Government official charged with the administration of the affairs of these people. The Indians are the victims of an antiquated system of administration, and those that administer to the wants and needs of the Indians under this system are sometimes helpless and can at times not do things differently than they do. But the Chippewa Indians ask to be given a chance to shift for themselves.

The Clerk read as follows:

Montana: Blackfeet, $6,000; Crow, $90,000; Flathead, $40,000; Fort Belknap, $20,000; Fort Peck, $5,500; Tongue River, $9,500; in all, $171,000.

Mr. KELLY. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the subcommittee in regard to the item of $90,000 for the Crow Indians. I would like to ask whether that is to be paid from the trust funds of the Crow Tribe?

Mr. CRAMTON. All of the items we are now considering are paid from the funds of the Indians.

Mr. KELLY. I would like to say that I recall distinctly that in 1920 we passed through this Congress an act providing for the allotment of the Crow Reservation. In that bill, which was signed by the President on June 4, 1920, it was provided that the moneys arising after the allotment had been made should be placed in the Treasury for the benefit of the Crow Indians, and that after five years, which expired on June 30, 1925, the trust funds should be distributed among the Indians in per capita payments. Now, after the expiration of all this time, how in 1926 is $90,000 carried out of the trust funds of the Indians?

Mr. CRAMTON. It is my recollection—but I may be in error—that there has been a distribution of substantially all of the funds of the Crows.

Mr. KELLY. Where does the $90,000 come from?

Mr. CRAMTON. It would have to come from the remnant that is left. It is my recollection that substantially all has been distributed, although, without refreshing my recollection, I could not be sure about that. I recall that when we were on the reservation this summer it developed that there was remaining not more than $200,000 or $300,000, although my recollection may be erroneous.

Mr. KELLY. I feel quite sure there will be a demand for the repayment of this $90,000 and all the other amounts which are taken out of the trust funds of the Crow Indians. The act to which I have referred distinctly provided that the money should be distributed, and distinctly provided that the reservation should be allotted within a five-year period. That period has now elapsed, yet we are coming in and taking trust funds and using them for the payment of salaries and so-called support items. Without doubt in time there will be a demand made against the United States for the repayment of this money, and in my estimation it must be paid back in all honor in view of the acts which have been passed.

Mr. CRAMTON. Mr. Chairman, I do not care to say anything further than that I have no doubt the expenditures are entirely in compliance with the law the gentleman speaks of.

Mr. KELLY. No; they can not be, because the act provides a date, and that date is June 30, 1925. This is a 1927 appropriation bill.

Mr. CRAMTON. Mr. Chairman, I may say to the gentleman from Pennsylvania that I find there is $346,380 in the Treasury. I have not at hand the justification for the use of this money or enough information for any intelligent discussion of the gentleman's suggestion, but in any event I am sure there has been a very substantial compliance, and, so far as I know, a complete compliance.

Mr. CARTER of Oklahoma. If the gentleman will yield, very often items under the head of support and civilization are distributed for the wants of the different Indians and sometimes in per capita payments. We had one payment that went for a long while to the Kiowa and Comanche Indians in Oklahoma under that kind of a provision; and also, under support and civilization there are expenditures for the sale of the property of the Indians.

Mr. KELLY. Also for the salaries of employees.

Mr. CARTER of Oklahoma. Certainly; it can be used for either.

Mr. KELLY. Does the gentleman think that is a wise distribution of trust funds—to pay salaries to carry out an American policy which is a Government policy and not an Indian policy?

Mr. CARTER of Oklahoma. I was not discussing the policy or the wisdom of the matter, but what could be done under that language.

Mr. KELLY. I agree with the gentleman.

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn, and the Clerk will read.

The Clerk read as follows:

The Secretary of the Interior is authorized to withdraw from the Treasury of the United States the sum of $30,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Red Lake Band of Chippewa Indians in the State of Minnesota arising under the act of May 18, 1916 (39 Stat. L., p. 138), and to

expend the same in the construction and equipment of planing mill, box factory, cottages, office, and steamboat, and minor sawmill appurtenances.

Mr. CRAMTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON: On page 59, line 10, strike out the words "and steamboat."

Mr. CRAMTON. Mr. Chairman, the purpose of this amendment is to eliminate the use of the appropriation in connection with a steamboat, which I think is a matter postponed. I do this at the request of the gentleman from Minnesota [Mr. NEWTON].

The amendment was agreed to.

Mr. CRAMTON. Mr. Chairman, on page 59, in line 15, the letter "i" is dropped out of the word "in." It is just a typographical error.

The CHAIRMAN. Without objection, the correction will be made.

There was no objection.

The Clerk read as follows:

To carry out the provisions of the Chippewa treaty of September 30, 1854 (10 Stat. L., p. 1109), $10,000, in part settlement of the amount, $141,000, found due and heretofore approved for the St. Croix Chippewa Indians of Wisconsin, whose names appear on the final roll prepared by the Secretary of the Interior pursuant to act of August 1, 1914 (38 Stat. L., pp. 582–605), and contained in House Document No. 1663, said sum of $10,000 to be expended in the purchase of land or for the benefit of said Indians by the Commissioner of Indian Affairs: *Provided*, That in the discretion of the Commissioner of Indian Affairs the per capita share of any of said Indians under this appropriation may be paid in cash.

Mr. SMITH. Mr. Chairman, I ask unanimous consent to revert to page 6 of the bill for the purpose of offering an amendment to the item for printing and binding of reports of the Geological Survey.

Mr. CRAMTON. Mr. Chairman, I regret I feel obliged to object to the request; at this time at any rate.

The CHAIRMAN. The gentleman from Michigan objects. The Clerk will read.

The Clerk continued the reading of the bill to and including line 17, page 65.

Mr. CRAMTON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BURTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 6707, the Department of the Interior appropriation bill, and had come to no resolution thereon.

LEAVE OF ABSENCE

By unanimous consent, the following leave of absence was granted to—

Mr. MEAD, indefinite leave of absence on account of illness.

Mr. HOWARD, at the request of Mr. SHALLENBERGER, leave of absence for six days on account of business.

REPUBLICAN CAUCUS

Mr. TILSON. Mr. Speaker, I ask unanimous consent to speak for a half minute.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. TILSON. I simply wish to request all Republican Members to remain after the House adjourns for a caucus.

FOREIGN DEBT SETTLEMENT

Mr. GREEN of Iowa. Mr. Speaker, I ask unanimous consent to make an announcement of interest to Members.

The SPEAKER. The gentleman from Iowa asks unanimous consent to make an announcement. Is there objection?

There was no objection.

Mr. GREEN of Iowa. Mr. Speaker, I wish to announce that the copies of the hearings before the Ways and Means Committee on the foreign debt settlements will be ready to-morrow morning, and Members can obtain them by applying at the rooms of the Ways and Means Committee.

ADJOURNMENT

Mr. CRAMTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 30 minutes p. m.) the House adjourned until to-morrow, Saturday, January 9, 1926, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

259. A letter from the Secretary of the Department of Commerce, transmitting a draft of a proposed bill "To authorize the Comptroller General of the United States to relieve Fred A. Gosnell, former disbursing clerk, Bureau of the Census, and the estate of Richard C. Lappin, former supervisor of the fourteenth decennial census for the Territory of Hawaii, and special disbursing agent, in the settlement of certain accounts"; to the Committee on Claims.

260. A letter from the Secretary of the Navy, transmitting a draft of a bill "To provide for the equalization of promotion of officers of the staff corps of the Navy with officers of the line"; to the Committee on Naval Affairs.

261. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Treasury Department for the fiscal year ending June 30, 1926, pertaining to the customs service (H. Doc. No. 202); to the Committee on Appropriations and ordered to be printed.

262. A communication from the President of the United States, transmitting supplemental estimate of appropriation for the Treasury Department for the fiscal year ending June 30, 1926, pertaining to the Coast Guard Service (H. Doc. No. 203); to the Committee on Appropriations and ordered to be printed.

263. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Department of the Interior for the fiscal year ending June 30, 1926, office of Indian Affairs (H. Doc. No. 204); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. NEWTON of Minnesota: Committee on Interstate and Foreign Commerce. H. R. 172. A bill granting the consent of Congress to the State of Minnesota and the counties of Sherburne and Wright to construct a bridge across the Mississippi River; with amendments (Rept. No. 60). Referred to the House Calendar.

Mr. NEWTON of Minnesota: Committee on Interstate and Foreign Commerce. H. R. 173. A bill granting the consent of Congress to the village of Spooner, Minn., to construct a bridge across the Rainy River; with amendments (Rept. No. 61). Referred to the House Calendar.

Mr. PORTER: Committee on Foreign Affairs. H. J. Res. 107. A joint resolution to provide for the expenses of the participation of the United States in the work of a preparatory commission to consider questions of reduction and limitation of armaments; without amendment (Rept. No. 62). Referred to the Committee of the Whole House on the state of the Union.

Mr. CRISP: Committee on Ways and Means. H. R. 6773. A bill to authorize the settlement of the indebtedness of the Kingdom of Italy to the United States of America; without amendment (Rept. No. 63). Referred to the Committee of the Whole House on the state of the Union.

Mr. FREDERICKS: Committee on Interstate and Foreign Commerce. H. R. 3852. A bill to authorize the construction of a toll bridge over the Columbia River at a point within 2 miles downstream from the town of Brewster, Okanogan County, State of Washington, to a point on the opposite shore in Douglas County, State of Washington; with amendments (Rept. No. 65). Referred to the House Calendar.

Mr. HUDDLESTON: Committee on Interstate and Foreign Commerce. H. R. 3755. A bill granting the consent of Congress to the counties of Anderson, S. C., and Elbert, Ga., to construct a bridge across the Savannah River; with an amendment (Rept. No. 66). Referred to the House Calendar.

Mr. RAYBURN: Committee on Interstate and Foreign Commerce. H. R. 4032. A bill granting consent of Congress to the Brownsville & Matamoros Rapid Transit Co. for construction of a bridge across the Rio Grande at Brownsville, Tex.; without amendment (Rept. No. 67). Referred to the House Calendar.

Mr. RAYBURN: Committee on Interstate and Foreign Commerce. H. R. 4033. A bill granting consent of Congress to the Hidalgo & Reynosa Bridge Co. for construction of a bridge across the Rio Grande near Hidalgo, Tex.; without amendment (Rept. No. 68). Referred to the House Calendar.

Mr. DENISON: Committee on Interstate and Foreign Commerce. H. R. 5379. A bill granting the consent of Congress to the county of Cook, State of Illinois, to construct a bridge across the Little Calumet River in Cook County, State of Illinois; with amendments (Rept. No. 69). Referred to the House Calendar.

Mr. DENISON: Committee on Interstate and Foreign Commerce. H. R. 6089. A bill granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River in the county of McHenry, State of Illinois, in section 26, township 45 north, range 8 east of the third principal meridian; with an amendment (Rept. No. 70). Referred to the House Calendar.

Mr. BURTNESS: Committee on Interstate and Foreign Commerce. H. R. 5565. A bill granting the consent of Congress to the Civic Club of Grafton, N. Dak., to construct a bridge across the Red River of the North; without amendment (Rept. No. 71). Referred to the House Calendar.

Mr. JARRETT: Committee on the Territories. H. R. 4799. A bill to authorize and provide for the manufacture, maintenance, distribution, and supply of electric current for light and power within the district of Hana, on the island and county of Maui, Territory of Hawaii; without amendment (Rept. No. 72). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. DRIVER, Committee on Public Lands. S. 1423. An act to relinquish the title of the United States to the land in the donation claim of the heirs of J. B. Baudreau, situate in the county of Jackson, State of Mississippi; without amendment (Rept. No. 64). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 6572) to modify and amend the mining laws in their application to the Territory of Alaska; Committee on Territories discharged, and referred to the Committee on Mines and Mining."

A bill (H. R. 4879) granting a pension to Catherine Cowhick; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 6211) granting an increase of pension to Alphonso L. Armstrong; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 4177) granting an increase of pension to Robert O. Thomas; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KNUTSON: A bill (H. R. 7171) to pension soldiers and sailors of the war with Spain, the Philippine insurrection, or the China relief expedition; to the Committee on Pensions.

Also, a bill (H. R. 7172) to pension soldiers who were in the military service during Indian wars and disturbances and the widows, minors, and helpless children of such soldiers, and to increase the pensions of Indian war survivors and widows; to the Committee on Pensions.

By Mr. FRENCH: A bill (H. R. 7173) authorizing the Secretary of the Interior to dispose of certain allotted land in Boundary County, Idaho, and to purchase a compact tract of land to allot in small tracts to the Kootenai Indians, as herein provided, and for other purposes; to the Committee on Indian Affairs.

By Mr. WOODRUM: A bill (H. R. 7174) renewing and extending patent No. 936200; to the Committee on Patents.

By Mr. BACON: A bill (H. R. 7175) to supplement the naturalization laws; to the Committee on Immigration and Naturalization.

Also, a bill (H. R. 7176) to supplement the naturalization laws by extending certain privileges to aliens who served honorably in the military or naval forces of the United States during the World War; to the Committee on Immigration and Naturalization.

By Mrs. ROGERS: A bill (H. R. 7177) to facilitate the naturalization of aliens who served in the armed forces of the United States during the World War; to the Committee on Immigration and Naturalization.

By Mr. ELLIOTT: A bill (H. R. 7178) to authorize the sale of certain abandoned tracts of land and buildings; to the Committee on Public Buildings and Grounds.

By Mr. LANKFORD: A bill (H. R. 7179) to secure Sunday as a day of rest in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. PARKER: A bill (H. R. 7180) to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS: A bill (H. R. 7181) to provide for the equalization of promotion of officers of the Staff Corps of the Navy with officers of the line; to the Committee on Naval Affairs.

By Mr. BUSBY: A bill (H. R. 7182) to increase the limit of cost of certain public buildings; to authorize the enlargement, extension, remodeling, or improvement of certain public buildings; to authorize the erection and completion of certain public buildings; and to authorize the purchase of sites for certain public buildings, and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. DAVILA (by request): A bill (H. R. 7183) to provide a permanent government for the Virgin Islands, and for other purposes; to the Committee on Insular Affairs.

By Mr. HULL of Tennessee: A bill (H. R. 7184) to repeal the provisos of paragraphs 369, 401, 1301, and 1302 of section 1 of the tariff act of 1922; the provisos of paragraphs 1536, 1541, 1543, 1548, 1585, and 1700 of section 201 of the tariff act of 1922; and paragraph 371 of the tariff act of 1922; to the Committee on Ways and Means.

By Mr. EDWARDS: A bill (H. R. 7185) providing for drainage of low and swamp lands and for surveys and reports and authorizing the appropriation of $1,000,000 for this purpose; to the Committee on Irrigation and Reclamation.

By Mr. REED of Arkansas: A bill (H. R. 7186) to prevent the sale of cotton and grain in future markets; to the Committee on Agriculture.

By Mr. BRITTEN: A bill (H. R. 7187) granting the consent of Congress to the South Park commissioners and the commissioners of Lincoln Park, separately or jointly, their successors and assigns, to construct, maintain, and operate a bridge across that portion of Lake Michigan lying opposite the entrance to Chicago River, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. COLLINS: A bill (H. R. 7188) granting the consent of Congress to the J. R. Buckwalter Lumber Co. to construct a bridge across Pearl River in the State of Mississippi; to the Committee on Interstate and Foreign Commerce.

By Mr. REED of Arkansas: A bill (H. R. 7189) to provide for the purchase of a site and the erection of a public building at Monticello, in the State of Arkansas; to the Committee on Public Buildings and Grounds.

By Mr. McCLINTIC: A bill (H. R. 7190) granting the consent of Congress to the Grandfield Bridge Co., a corporation, to construct, maintain, and operate a bridge across Red River and the surrounding and adjoining public lands, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SANDERS of Texas: A bill (H. R. 7191) to amend section 1 of the interstate commerce act as amended by the transportation act of 1920, and expressly recognizing the jurisdiction and power of the several States to regulate intrastate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. IRWIN: A bill (H. R. 7192) to provide for the purchase of a site and the erection thereon of a Federal building at Wood River, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. GIBSON: Joint resolution (H. J. Res. 110) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. PARKS: Resolution (H. Res. 79) directing an investigation as to the means and methods of the manufacture, price, and distribution of rubber products, and the price, sale, and distribution of coffee; to the Committee on Rules.

By Mr. HUDSON: Resolution (H. Res. 80) directing the Alcoholic Liquor Traffic Committee of the House of Representatives to make a survey of conditions under prohibition and report thereon; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CAREW: A bill (H. R. 7193) granting a pension to Letitia Cline; to the Committee on Invalid Pensions.

By Mr. CHINDBLOM: A bill (H. R. 7194) granting an increase of pension to Mary Louise Shepard; to the Committee on Invalid Pensions.

By Mr. BEERS: A bill (H. R. 7195) granting an increase of pension to John F. Dewire; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7196) granting a pension to Susan A. Kuhn; to the Committee on Invalid Pensions.

By Mr. BRAND of Ohio: A bill (H. R. 7197) for the relief of C. Earl Smith and Marie Patton; to the Committee on Claims.

By Mr. BYRNS: A bill (H. R. 7198) granting an increase of pension to William A. Hamilton; to the Committee on Pensions.

By Mr. DENISON: A bill (H. R. 7199) granting a pension to Sidney Livesay; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7200) granting a pension to Martha J. Summers; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 7201) for the relief of the city of Waynesboro, Ga.; to the Committee on Claims.

Also, a bill (H. R. 7202) for the relief of Raymond L. Silva; to the Committee on World War Veterans' Legislation.

Also, a bill (H. R. 7203) granting an increase of pension to Georgia A. Bowen; to the Committee on Pensions.

By Mr. FISH: A bill (H. R. 7204) for the relief of the New Jersey Shipbuilding & Dredging Co., of Bayonne, N. J.; to the Committee on Claims.

By Mr. FROTHINGHAM: A bill (H. R. 7205) for the relief of Carl G. Lindstrom; to the Committee on Claims.

By Mr. GRIFFIN: A bill (H. R. 7206) for the relief of Thomas F. Kenny; to the Committee on Claims.

By Mr. HALL of Indiana: A bill (H. R. 7207) granting an increase of pension to John W. Graybill; to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 7208) granting an increase of pension to Phoebe Cook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7209) granting an increase of pension to Calvin E. Myers; to the Committee on Pensions.

By Mr. MORTON D. HULL: A bill (H. R. 7210) granting an increase of pension to Catharine Watson; to the Committee on Invalid Pensions.

By Mr. IRWIN: A bill (H. R. 7211) for the relief of James W. Kingon; to the Committee on Military Affairs.

By Mr. KING: A bill (H. R. 7212) granting a pension to Lucinda Lenhart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7213) granting a pension to Carrie Howell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7214) granting a pension to Millie McDougal; to the Committee on Invalid Pensions.

By Mr. LANHAM: A bill (H. R. 7215) for the relief of T. H. Nace; to the Committee on Claims.

By Mr. LOZIER: A bill (H. R. 7216) granting an increase of pension to Maggie Ohaver; to the Committee on Invalid Pensions.

By Mr. McMILLAN: A bill (H. R. 7217) to authorize Capt. F. A. Traut, of the United States Navy, to accept a decoration from the King of Denmark, known as the "Order of Dannebrog"; to the Committee on Naval Affairs.

By Mr. McSWEENEY: A bill (H. R. 7218) granting an increase of pension to Susanna Vernon; to the Committee on Pensions.

Also, a bill (H. R. 7219) granting an increase of pension to Jeanette Keim; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7220) granting a pension to Grace H. Fisher; to the Committee on Pensions.

By Mr. MAJOR: A bill (H. R. 7221) granting a pension to Ira Gill; to the Committee on Invalid Pensions.

By Mr. MENGES: A bill (H. R. 7222) granting an increase of pension to Kate J. Bamforth; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7223) granting an increase of pension to Isabella Laucks; to the Committee on Invalid Pensions.

By Mr. MOORE of Ohio: A bill (H. R. 7224) granting a pension to George W. Murphy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7225) granting a pension to Alzira W. Shaffer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7226) granting a pension to Amanda M. Doty; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7227) granting an increase of pension to Elizabeth Spence; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7228) to correct the military record of William H. Murphy; to the Committee on Military Affairs.

By Mr. MOREHEAD: A bill (H. R. 7229) granting an increase of pension to Richard C. James; to the Committee on Pensions.

By Mr. PURNELL: A bill (H. R. 7230) granting a pension to Susannah Bell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7231) granting an increase of pension to Maria Cook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7232) granting an increase of pension to Sarah A. Smith; to the Committee on Invalid Pensions.

By Mr. SANDERS of New York: A bill (H. R. 7233) granting an increase of pension to Esther Schwab; to the Committee on Pensions.

By Mr. SMITHWICK: A bill (H. R. 7234) granting an increase of pension to Annie O. Carney; to the Committee on Pensions.

By Mr. STRONG of Kansas: A bill (H. R. 7235) granting an increase of pension to Etta Burns; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7236) granting an increase of pension to Julia A. Heydorf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7237) granting an increase of pension to Mary E. Pearson; to the Committee on Invalid Pensions.

By Mr. SWOOPE: A bill (H. R. 7238) granting an increase of pension to Caroline E. Girrel; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 7239) granting a pension to Nancy Wright; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7240) for the relief of Thomas Williams; to the Committee on Military Affairs.

By Mr. WOODRUM: A bill (H. R. 7241) granting a pension to Rupert C. Richards; to the Committee on Pensions.

Also, a bill (H. R. 7242) for the relief of Edward W. Conway; to the Committee on Claims.

Also, a bill (H. R. 7243) for the relief of E. R. Logwood; to the Committee on Claims.

By Mr. YATES: A bill (H. R. 7244) granting a pension to Eva A. Blanchard; to the Committee on Invalid Pensions.

By Mr. TREADWAY: Resolution (H. Res. 78) to pay to Donald W. MacLean $171.67 and to Mariem G. Biggerstaff $161.67 as clerk hire to the late Hon. John Jacob Rogers; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

296. By Mr. BURTNESS: Resolution of John Reynolds Post, No. 5, Department of North Dakota, Grand Army of the Republic, urging modification of pension laws; to the Committee on Invalid Pensions.

297. By Mr. CULLEN: Resolutions of the United Wall Paper Crafts of North America, by Mr. John J. Higgins, president, Brooklyn, N. Y., Local Union, No. 2, affiliated with the American Federation of Labor, calling on Congress to conduct a thorough investigation of the plans and activities of the promoters of the Bread Trust; to the Committee on Interstate and Foreign Commerce.

298. Also, petition of Mr. Frank W. Zedren, 363 Westervelt Avenue, New York City, indorsing and approving the device "Avythistos," invented by Mr. Adam T. Drekolias, of New York, for preventing ships of any size and type from sinking; to the Committee on Naval Affairs.

299. By Mr. CELLER: Petition of Mr. Frank W. Zedren and others, suggesting a scientific inspection of the United States Patent 1355656, named "Avythistos," and the adoption by the proper naval authorities for the benefit of the American marine; to the Committee on Naval Affairs.

300. By Mr. CAREW: Petition of Mr. Frank W. Zedren and others, suggesting a scientific inspection of the United States patent 1355656, named "Avythistos," and the adoption by the proper naval authorities for the benefit of the American marine; to the Committee on Naval Affairs.

301. By Mr. CARTER of California: Petition of the Western Waters Association, relating to overproduction propaganda and its effect upon agricultural credit; to the Committee on Irrigation and Reclamation.

302. By Mr. GARBER: Resolutions and copy of preamble adopted by the board of directors of the New Orleans Cotton Exchange, in reference to the supply of farm labor in the cot-

ton States; to the Committee on Immigration and Naturalization.

303. Also, resolution of the executive committee of the Osage Indian Protective Association, expressing appreciation of the tribe for the work of J. Geo. Wright, superintendent of the tribe, and protecting against statements being made against him by those not connected with the tribe; to the Committee on Indian Affairs.

304. Also, resolutions of the National Association of Railroad and Utilities Commissioners, urging certain changes in the interstate commerce act; to the Committee on Interstate and Foreign Commerce.

305. Also, resolution of certain citizens of Deer Creek, Okla., indorsing the adherence of the United States to the World Court with Harding-Coolidge reservations; to the Committee on Foreign Affairs.

306. Also, resolution of the Commercial Law League of America, indorsing the principle of increased compensation for Federal judges; to the Committee on the Judiciary.

307. Also, resolution of the National Committee for the Prevention of Blindness, urging increased financial support from Congress and additional legislation looking to the control of trachoma; to the Committee on Indian Affairs.

308. Also, resolution of the Better Bedding Alliance of America, asking that the regulation of common carriers be vested in the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

309. By Mr. GIBSON: Petition of Pierce Lawton Post, No. 37, American Legion, Bellows Falls, Vt., urging Congress to make adequate and immediate provision for the construction of a suitable building to house post office and other governmental agencies; to the Committee on Public Buildings and Grounds.

310. By Mr. GRIEST: Petition of the American Association of Railroad Ticket Agents, favoring legislation charging the Interstate Commerce Commission with the regulation of motor vehicles engaged in interstate commerce; to the Committee on Interstate and Foreign Commerce.

311. By Mr. HUDSON: Petititon of sundry citizens of South Lyon, Mich., urging that legislation be enacted placing the appointment of postmasters under the classified civil service in order that more efficient and satisfactory service may be obtained; to the Committee on the Post Office and Post Roads.

312. By Mr. HUDSPETH: Resolution of the Val Verde Post of the American Legion, commending the action of Col. William Mitchell in his utterances regarding the Air Service; to the Committee on Military Affairs.

313. By Mr. KINDRED: Petition of the Merchants' Association of New York, urging the Congress of the United States to support the debt-funding agreements which have been negotiated by the American Debt Commission; to the Committee on Foreign Affairs.

314. Also, petition of the Colonial Radio Corporation of New York, urging the Congress of the United States to oppose the passage of the so-called Ainey bill, by Senator CUMMINS; to the Committee on Interstate and Foreign Commerce.

315. By Mr. KVALE: Petition of Arthur McArthur Camp, No. 16, United Spanish War Veterans, Department of Minnesota, requesting that Congress enact such measures as may be necessary to establish a uniform and equal standard for rating all United States war veterans who were honorably discharged, both for age, pensions, and for disabilities of service origin; to the Committee on Pensions.

316. Also, petition of the Lutheran Brotherhood of the First Norwegian Lutheran Church, of Duluth, Minn., requesting Congress to combat any attempt undertaken to either repeal or alter the present statute as relates to the eighteenth amendment or the so-called Volstead Act; to the Committee on the Judiciary.

317. By Mr. PHILLIPS: Evidence in support of House bill 7039, granting an increase of pension to Jane E. Francis; to the Committee on Invalid Pensions.

318. Also, evidence in support of House bill 7038, granting a pension to Asilee Armstrong; to the Committee on Invalid Pensions.

319. Also, evidence in support of House bill 7037, granting a pension to Sarah Ann Adams; to the Committee on Invalid Pensions.

320. By Mr. YATES: Petition favoring imposing jail sentences on all violators of the eighteenth amendment, also deportation of all aliens for the first offense of said act, also to make all officers of the law from city to national come under civil service; to the Committee on the Civil Service

SENATE

SATURDAY, *January 9, 1926*

(Legislative day of Thursday, January 7, 1926)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names.

Ashurst	Fess	Keyes	Schall
Bayard	Fletcher	King	Sheppard
Blease	Frazier	La Follette	Shipstead
Bratton	George	Lenroot	Shortridge
Brookhart	Gerry	McKellar	Simmons
Broussard	Gillett	McKinley	Smith
Bruce	Glass	McLean	Smoot
Butler	Goff	McMaster	Stanfield
Cameron	Gooding	Mayfield	Stephens
Capper	Greene	Means	Swanson
Caraway	Hale	Neely	Trammell
Copeland	Harreld	Norris	Tyson
Couzens	Harris	Oddie	Underwood
Curtis	Harrison	Overman	Wadsworth
Dale	Heflin	Pepper	Walsh
Deneen	Howell	Pine	Warren
Dill	Johnson	Reed, Pa.	Watson
Edge	Jones, N. Mex.	Robinson, Ark.	Wheeler
Edwards	Jones, Wash.	Robinson, Ind.	Williams
Ferris	Kendrick	Sackett	Willis

Mr. JONES of Washington. I wish to announce the absence of the Senator from Connecticut [Mr. BINGHAM], due to illness.

The VICE PRESIDENT. Eighty Senators having answered to their names, a quorum is present.

SENATOR TYSON'S JACKSON DAY ADDRESS

Mr. McKELLAR. Mr. President, last night at a meeting of the Southern Society my colleague, the junior Senator from Tennessee [Mr. TYSON], delivered a very patriotic address on the life and character of Andrew Jackson. I ask unanimous consent that it may be printed in the RECORD.

The VICE PRESIDENT. Is there objection? If not, it is so ordered.

The address is as follows:

Address on Jackson Day before the Southern Society of Washington, Willard Hotel, Washington, D. C., January 8, 1926, by Senator L. D. TYSON

Mr. President, ladies, and gentlemen, after hearing the inspiring and eloquent address of Colonel Dickinson which we have heard this evening it may seem superfluous to say more on this occasion.

But we all appreciate that it would be an omission that none of us would be willing to sponsor did we not say something in honor of this great day and the reason for its observance.

The people of our country for more than a hundred years by common consent each year on this day have assembled together and celebrated the most remarkable victory ever gained on the battle field in recorded history—the Battle of New Orleans—and to honor the most remarkable man that ever appeared on the horizon of this Republic—Gen. Andrew Jackson.

Mr. President, you have asked me to make a few remarks on this occasion in honor of this great day and you have limited me to a few minutes.

If I had the eloquence of Daniel Webster or Henry W. Grady I could not do justice to this great subject in many hours' time.

In the short space of a few minutes how impossible it is to say anything worthy of this day.

It would not be appropriate to say anything of a political nature on this occasion, and about the only thing that I can do is to try to bring to your attention the value of the study of the life and times of Andrew Jackson. I believe if you will study his life and the period in which he lived from the cradle to the grave you will find it more thrilling than any novel; that you will learn to appreciate more and more what we owe to the men and the women of the pioneer days.

We have had many great men in our country, and the names of many of them to-day are oftener upon the lips of our countrymen than is the name of Andrew Jackson, but, Mr. President, I believe there is no man whom our country has produced who deserves more from his country than Andrew Jackson.

There never was a greater or more unselfish patriot—nor one who gave at all times more unsparingly or more effectively for his country.

He was born in 1767 of poor parents who had come to America from Ireland in 1765 for the purpose of escaping the oppressions of the British. Shortly after settling in America the father died, and later the whole family was to suffer even a more dire calamity in this far-off America at the hands of the British than they could possibly have experienced had they remained in Ireland. Before the Revolutionary War was over two brothers of Andrew had been killed by the British